Supreme Court, U.S.
FILED

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No.

IN THE

Supreme Court of the United States

Anne Boston Parish,

Petitioner,

v.

Commonwealth of Virginia,

Respondent.

On Petition For Writ Of Certiorari
To The Supreme Court of Virginia

PETITION FOR A WRIT OF CERTIORARI.

Anne Boston Parish
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Pro se

December 17, 2010

QUESTIONS PRESENTED

This rare petition is to correct a wrongful arrest and conviction. I am a 58 year old Family Nurse Practitioner; owner and founder of the Queen Street Clinic. For the last two years, I have honored the authorities and put my life, liberty and pursuit of happiness in the hands of others. I subsequently have suffered cruel and needless grievous damage to 40 years of a highly regarded medical reputation which is irreplaceable. This fight for justice is not about the fallacious inflammatory internet narrative about me, it is about 22,000 poor and unemployed Hispanic and African-American patients who will no longer have a medical home because the Queen Street Clinic will close. Anne Boston Parish, [hereinafter] Petitioner, pleas this rare petition will be granted due to the unreasonable departure from constitutional law and the malicious prosecution that began with a wrongful arrest. The discretion by the lower Court has prosecutorial misconduct deeply inherent in court room procedure and conduct and defies all reasonable and proper judicial protocol. The dismissals of the "Fundamentals of Fairness" standards enforced by State and federal governments, the *Miranda* warning, and the Petitioner's three appeals to the lower Court, are shameful because the dismissals are equal to the Petitioner, as a Nurse Practitioner, prescribing the wrong medication, the wrong medical tests, and interpreting laboratory values incorrectly to the Court and the Court suffers a grievous harm.

1. With all due respect to the lower Court's opinion, where are the "earlier words" that were to have been spoken by the Petitioner to cite "case law dictates" in the context of "Petitioner's earlier words," or have the denial of appeals been an on-going scheme to shield a wrongful civil right violation 42 U.S.C. § 1983 and stop any civil action against the Police Officer and the Commonwealth of Virginia?

2. Was the Commonwealth's prosecutorial misconduct to deny due process, suppression of exculpatory material, and denial of a trial by jury so repugnant to the constitutionality of the Commonwealth as it is to the U.S. Constitution as a tactic to secure a wrongful conviction for a successful Family Nurse Practitioner business woman whose civil rights were violated?

3. Is the U.S. Supreme Court able to reconcile such established practice of the Commonwealth that disregard departure from ethical conduct, and review this rare case that has willfully permitted 15 attorneys to commit crimes of conspiracy and deception?

4. Will the Governor and Attorney General of the Commonwealth be given the opportunity to explain why the Commonwealth has shown no interest in a wrongful conviction, and civil rights violation but all a "tragic rush to accuse," that has resulted in the defamation of the Petitioner's good name which has led to cruel and unwarranted punishment?

5. Does an error at trial that departs from precedent and settled judicial custom, a means to openly humiliate and disparage Petitioner, a successful Nurse Practitioner business woman, so cruel as to allow great financial and emotional harm due to the

unmitigated damages to Petitioner's professional reputation, good name, community standing, denial of doctoral degree residency, and right to work as posted on the internet?

6. While being detained, and witnessed by patients and an attorney, would not two hours of interrogation be considered excessive by two Alexandria Police Officers and two USPS inspectors, in uniform with guns in view, that evoked undue psychological trauma and pressure, because Petitioner did not know she was "free to leave her property" a violation of her constitutional rights of 42 U.S.C. § 1983 and her *Miranda* warnings?

LIST OF PARTIES

The parties involved in this Writ of Certiorari are Anne Boston Parish, Commonwealth of Virginia, and the Supreme Court of Virginia.

TABLE OF CONTENTS

Page

Questions Presented i

List of Parties iv

Table of Contents v

Table of Appendices viii

Table of Cited Authorities ix

Citations to Opinions 1

Statements of Jurisdiction 1

Constitutional and Statutory Provisions Involved 1

Statement of the Case 2

A. The case against Anne Boston Parish 2

Reasons for Granting the Petition 11

I. With all due respect to the lower Court's opinion, there are "no facts or ample evidence," to defend the opinion in which the lower Court states, "case law dictates" in the context of "Petitioner's earlier words" there are no earlier words spoken by the Petitioner. This case is not about an assault and battery; it is an all out effort to protect a wrongful arrest by an Alexandria Police Officer who violated Petitioner's civil right 42 U.S.C. § 1983. 11

A. The Commonwealth failed to provide any evidence or fact beyond a reasonable doubt for a guilty conviction, which subsequently has

caused grievous damage to Petitioner's professional reputation which is irreplaceable.....11

B. Commonwealth and defense counsel suppressed exculpatory material that was in favor of Petitioner. Fundamental principles: the Courts are fair and judges are competent, were clearly disregarded. Petitioner's constitutional rights were violated due to the lower Court's disregard to Virginia Code and the Code of Ethical conduct 16

C. The Commonwealth's judicial system has become so cold-blooded that attorneys willfully take the money of innocent clients but do not uphold the ethical practices established by the *Model Rules* of Professional Conduct. The process that monitors the accountable for reporting another lawyer's prosecutorial misconduct is not enforced and it appears the judicial system is a world consumed with corruption within its own ranks.....19

D. Petitioner wrote the Attorney General of the Commonwealth two letters requesting help from his office. Petitioner was told the Attorney General would not speak to her without an attorney present nor would a nolle prosequi be an option which has forced Petitioner to seek justice

requesting a petition be granted by the U.S. Supreme Court for this wrongful arrest and conviction. 24

E. Petitioner has spent over $75,000 in legal fees trusting a judicial system that has failed to amend the wrong of an innocent victim. Due to the criminal conviction, Petitioner lost an awarded Commonwealth Nurse Educator scholarship for $40,000. The Commonwealth has withheld the awarded scholarship money to the Petitioner. 26

F. On February 5, 2009, two Alexandria police officers, unannounced, entered Petitioner's clinic, and for two hours questioned Petitioner with the assistance of two USPS inspectors. Petitioner answered questions, and at the time, Petitioner did not know she could ask "Police and Inspectors" to leave. Petitioner was ignorant of her constitutional rights and answered their questions.....29

TABLE OF APPENDICES

		Page
Appendix A	U.S. Court of Appeals denied for rehearing	1a
	U.S. Court of Appeals dismissal for lack of jurisdiction	2a
Appendix B	Opinion of Lower Court: Judge Rossie D. Alston, Jr.	3a
Appendix C	Circuit Court	11a
	General District Court-Appeal and verdict	13a
Appendix D	Police summons: Office Candiff	14a
Appendix E	Mr. Ali Akbar: notarized affidavit	15a
Appendix F	USPS written statements: Miss Roth and Mr. Williams	17a
Appendix G	Polygraph: Anne Boston Parish	21a
Appendix H	Letter to Honorable Judge Brown	23a
Appendix I	Letter of Dr. Field and Mrs. Smith	26a
Appendix J	Letters to Attorney General Ken Cuccucilli-Request for assistance	30a
Appendix K	Virginia Judicial Canon 3, U.S. Constitution, Article V, VI and VI, and XII 42 U.S.C. § 1983, and Va. Const. Art, § 8	39a

TABLE OF CITED AUTHORITIES

CASES Page

Berger v. United States 295 U.S. 78, 88 (1935) 15

Brady v. Maryland 373 U.S. 83, 87 (1963) 6, 10, 11, 13, 15, 16, 17, 19, 26, 28

Brown v. Eighth Judicial Dist. Court, 14 P.3d 1266, 1269-70 (Nev. 2000) 6

Ex parte Adams, 768 S.W. 2sd 281, 293 (1989) 6, 7, 16

Hulvey v. Roberts, 106 Va. 189. 55 S.E. 585 (1906).....25

Kaupp v Texas, 123 S. Ct 1843, 1845 (2003).....31

Mendenhall, 446, U.S. 544 (1980) 29, 30

Miranda v. Arizona, 384 U.S. 436, 16 L. Ed. 2sd 694, 86 S. Ct. 1602 (1966) ..... i, iii, 11, 13, 17, 29, 30, 31, 36

N.C. State Bar v Nifong 27 NCAC 1B .0124..... 17, 23, 24, 26

Pointer v Texas 380, 400 U.S. 400, 401 (1965) 14, 22

Powell v Alabama, 287 U.S. 45; 53 S.Ct.55; 77L.Ed. 158 (1932) 25

Texas v. Adams, 448 U.S. 38 (1980) 6, 7

Strickland v. Washington, 466 U.S. 668 (1984) 19, 24

United States v. Bagley, 473 U.S. 667 (1985) 11, 16

United States v. Mendenhall, 446, U.S. 544 (1980) 29, 30

STATUTES

42 U.S.C.§ 1983
.....ii, iii, 1, 11, 12, 13, 17, 21, 28, 29, 41a

Va. Const. Art, § 8..... 1, 30, 42a

RULES

Model Rules of Professional Conduct
Rule 3.8 ..... 7, 19, 26, 28

The Va. Code of Judicial Conduct:
Canon 3A 19, 39a

North Carolina State Bar Discipline Rule
27 NCAC 1B § .0124 of the North Carolina
State Bar Discipline & Disability Rules
("Discipline Rules")..... 17, 23, 24, 26

CITATIIONS TO OPINIONS

The only published opinion in Anne Boston Parish v. Commonwealth is from the Court of Appeals of Virginia by Judge Rossie D. Alston, Jr. (Appendix B)

STATEMENT OF JURISDICTION

The Virginia Supreme Court issued their decision on Friday, the 24th day of September, 2010 to deny Petitioner a rehearing

CONSTITUTIONAL AND STATORY PROVISONS INVOLVED

U.S Constitution

Article IV

Article VI

Article VI

Article XIV

42 U.S.C. § 1983

Va. Const. Art, § 8

STATEMENT OF THE CASE

A. The case against Anne Boston Parish

Petitioner states, February 4, 2009, was a very cold and windy winter day. The weather was reported at 28 degrees Fahrenheit with a very strong wind chill; it was so cold that snow could be felt in the air. Queen Street Clinic is housed in a 60 year old brick building on the corner of Queen Street and Patrick Street in Old Town, Alexandria. Petitioner recalls the wind was so strong that the attached clinic sign was swinging back and forth which sounded very much like someone knocking on the clinic door. There were two patients inside the clinic at the time of this alleged event. One has provided an affidavit (Appendix E) that states Mr Greenspun's firm told him not to come to court. Mr. Ali Akbar was waiting to be seen and Mrs. Anita Chamberlain was being seen. Petitioner thought someone was at the clinic door, and went to the door, and spoke to her substitute mail carrier. Petitioner was told, someone else would be delivering the mail. Petitioner stated she earlier saw what seemed to be a lost mail carrier, who Petitioner had never seen before, wearing ear muffs, pounding on the fire exit back door of the church across Patrick Street. The mail carrier looked lost, so Petitioner called "Hello, Hello", and when accuser turned, Petitioner pointed in the direction of the entrance to the church, down Queen Street, not on Patrick Street. Patrick Street is a three lane highway, also known as Route 1. Daily, 40,000 cars travel this route on their way into Washington DC. Petitioner then shut the door and went back to her patients. Time passes, and Petitioner went to clinic door to get the mail. Miss Roth and Mr. Williams were standing outside the clinic door. Petitioner was told she was not going to get her mail. The clinic has a mail box on the outside of the building where Miss Roth could have left the mail. It would appear;

Miss Roth and Mr. Williams had plotted some type of confrontation to challenge Petitioner by withholding First Class Mail. Petitioner saw in Miss Roth arms, clinic mail that included ordered medication for patients, and clinic bank statements. Petitioner was told she could go to the post office and pick up clinic mail the next day. The medication that Miss Roth refused to deliver was medication ordered under the Petitioner's Drug Enforcement Agency Number (DEA) and was critical to be received. Petitioner told Miss Roth and Mr. Williams that Petitioner was going to file a complaint with the post office manager for withholding First Class Mail. Petitioner shut the door, walked to the counter, stopped and thought this is silly and then went back the door, holding on to it, and took a step verbally whining for the clinic mail, "Please leave the mail, it has medication and important clinic documents." Miss Roth was across a two lane street, Queen Street, when she starts screaming "Help, Help." Petitioner looked back at the Mr. Williams who was walking down Patrick Street in the opposite direction, who turned his head slightly and kept walking in the opposite direction. Petitioner immediately called post office supervisor and asked, "What was the reason that the mail carrier would not give her the mail?"

The following day, the Alexandria Police came to the clinic unannounced. Petitioner was told that this morning they had received a phone call about something that happened yesterday, and could they ask Petitioner some questions? Petitioner was not sure why they were asking the questions, but recalled Miss Roth and Mr. Williams both came right up to the clinic door. There was no shouting, touching, or name calling. Petitioner did not say one ugly or profound word to Miss Roth or did she touch or go near her. Petitioner offered to apologize, to diffusive any kind of misunderstanding, but Petitioner was very clear about the prior day's event;

Petitioner never spoke, shouted, was outside running up and down the street, called Miss Roth names or went near Miss Roth. Within the two hours of being questions, Officer Candiff and his partner told Petitioner it was too late and they had decided she was guilty. Officer Candiff went to the magistrate and had a summons issued for Petitioner (Appendix D). The questions were asked between 11:30am and 1:30pm by two police and two USPS inspectors. Officer Candiff, was only questioned in General District Court by Mr. Carroll, Petitioner's trial counsel, and the only question he asked Officer Candiff was, "How did he know the Petitioner?" He stated, "Six months earlier he had been reprimanded because he had not completed his paper work on Petitioner's "hit and run car accident." Petitioner did not know this until the day in General District Court, and never connected the summons (Appendix D) to Officer Candiff being reprimanded for not doing his job until that day. Officer Candiff's supervisor was in General District Court.

Petitioner was told by the police that Miss Roth did not go to the emergency room, call the police, call 911 or seek any medical assistance immediately after this alleged event. This morning, after Miss Roth had spoken to Mr. Williams, they called the police. Trial Transcript will reflect there are conflicting statements between Miss Roth and Mr. Williams. Miss Roth said, "They did not speak before they wrote out their statements" [Trial transcript, page 38, line17]. Mr. William's account is in conflict; Mr. Williams said, "He and Miss Roth did speak before they gave their written statements." [Trial transcript, Page 61, line 16-18]. Another conflicting statement by Miss Roth, she stated, "She and Mr. Williams did not speak about Petitioner filing a complaint." [Trial transcript, Page 38, line 18-22] the trial transcript will show, Mr. Williams stated, "He and Miss Roth discussed the Petitioner filing a complaint" [Trial transcript, page 62, line 7-10].

Mr. Carroll did not ensure Petitioner's patients were in court, which would have proven her innocence. This failure on Mr. Carroll's part was not an over sight, he just never did a well thought out investigation after agreeing to defend the Petitioner and taking her money. In Miss Roth's written statement, Miss Roth stated, "She called the police right away." In General District Court and Circuit Court, Miss Roth and Mr. Williams presented two different accounts of the event, which are now part of the trial transcript, and the trial transcript contradicts the written statements they wrote and gave to the USPS inspectors on February 5th, 2009 (Appendix F). Miss Roth and Mr. Williams stated in General District Court contradictions of their statements in Circuit Court. It should be noted that in addition to Mr. Carroll's ethical violations, he failed to record the trial, in General District Court. This is another example of Mr. Carroll's failure to defend the Petitioner. Moreover, the contradictions by Miss Roth and Mr. Williams in Circuit Court and in their written statements provided to the USPS inspectors were never addressed by Mr. Greenspun and Mr. Albrenio in Circuit Court; this is huge example of how Mr. Greenspun, Mr. Albrenio and Mr. Carroll failed to defend the Petitioner.

After a protracted wait for a bench trail in General District Court, Petitioner was found guilty. The Honorable Judge David Bracken is a good friend of Mr. Drew Carroll, trial counsel. Miss Roth, the accuser is Mr. Carroll's USPS mail carrier. Honorable Judge Bracken and Mr. Carroll should have removed themselves from the case due to bias and prejudice. Mr. Carroll having been told the details of the case, later admitted that he knew the mail carrier, as his mail carrier. Upon seeing Honorable Judge Bracken, Mr. Carroll stated, "Dave is a good friend of mine" and later Mr. Carroll stated, "Miss Roth is my mail

carrier." In accordance with Canon 3C of the Judicial Code, "a judge must recue himself if he has a personal bias or prejudice concerning a party to the lawsuit or has personal knowledge of the facts that are disputed in the proceeding outlines these situations, including the judge's personal bias or prejudice toward a matter or its participants, personal knowledge of the facts that are disputed in a case, a professional or familial relationship with a party or an attorney, or a financial interest in the outcome of the matter." Conflict of interest would have dictated the Honorable Judge Bracken voluntarily disqualify himself due to his personal relationship with Mr. Carroll. Conflicts of interests cases involving lawyer which laypersons may claim show a lawyer "switching sides" are sometimes difficult because the lawyers do not see a conflict and laypersons do. These cases involve the "delicate and sometimes difficult task of balancing competing interests: the individual right to be represented by counsel of one's choice, each party's right to be free from the risk of even inadvertent disclosure of confidential information, and the public's interest in the scrupulous administration of justice." *Brown v. Eighth Judicial Dist. Court*. Mr. Carroll's, deficient legal performance has ultimately caused Petitioner great personal and collateral consequences. Mr. Carroll was not diligent or competent and disregarded Petitioner's constitutional Fifth, Sixth & Fourteenth Amendment rights. Mr. Carroll and Mr. Burtka (Assistance Commonwealth Attorney) [hereinafter] "Commonwealth" suppressed critical written statements by Miss Roth and Mr. Williams, her co-worker. Under *Brady v. Maryland*, *Texas v Adams*, *Ex parte* Adams, prosecutors have a constitutional obligation to provide the defense with exculpatory material. Mr. Carroll and the Commonwealth's performance fell below an objective standard of reasonableness.

Texas v Adams, Ex parte Adams, 767 S.W. 2d 281, 293 (prosecutors have a constitutional obligation to provide the defense with exculpatory material).

Mr. Carroll was not honest in Court, and Petitioner did not know of his relationship with the Honorable Judge Bracken or Miss Roth until the day of trial. "Loyalty is an essential element in the lawyer's relationship to a client" *Model Rule* of Professional Conduct. It was confirmed by another lawyer, Thomas Carter, that Miss Roth was Mr. Carroll's mail carrier as well as his, and he could not take the Petitioner's case due to a conflict of interest. The Petitioner raises and ethical dilemma in the justice system of what constitutes the basis of the official rules adopted by each state's Supreme Court: *Model Rules* of Professional Conduct Rule are the fundamental basis that ensures fairness for the innocent. Mr. Carroll was not concerned that the key witnesses, Mr. Ali Akbar and Mrs. Anita Chamberlain, both in the clinic at the time, did not come to court, as Petitioner had been told.. Mr. Carroll's only comment was "Oh, Well." There was reasonable probability, had these key witnesses appeared in Court for this allegation, it would have ended in General District Court. Petitioner appealed Judge Bracken's verdict of "2 against 1" based on Petitioner did not do this crime and there were no facts or evidence to support this wrongful arrest. Without any evidence, Honorable Judge Bracken found Petitioner guilty.

On a daily basis over 40,000 cars drive by the clinic, yet there was not one person or shop owner that saw or heard of this shouting or screaming. Both Miss Roth and Mr. William's inconsistent written statements have not only been called into serious question, but were contradicted by the residents, business owners on Queen Street, and Petitioner's patients. Now, with a trial transcript, the inconsistency of their written statements

needs to be challenged by the U.S. Supreme Court. Petitioner is innocent of any crime and did not commit a crime.

In Circuit Court, Petitioner was ignorant of the constitutionality of the law. In her appeal, after Court began, Petitioner was handed a form to sign from the Commonwealth, to Mr. Greenspun, and Mr. Albreno handed it to Petitioner. Unknown, to Petitioner, she had just waived all rights to a jury trial. Mr. Greenspun is an experienced legal scholar of law, why did Mr. Greenspun deny the Petitioner's her constitutional right for a fair trial with a jury? In Court, USPS Inspector Giroux stated, "After interviewing Petitioner, Inspector Giroux declined to take further action." Inspector Giroux's testimony would suggest there was "reasonable doubt." One could say with good probability had Mr. Greenspun pursued this notion, of "reasonable doubt" the trial would have ended in favor of the Petitioner. It did not because Mr. Greenspun and Mr. Albreino's, performance fell below an objective standard that contributed to Petitioner's wrongful conviction. Mr. Greenspun and Mr. Albrenio did not exercise their obligation for Petitioner's defense. When USPS inspector Girous stated, "she declined to take further action"; Mr. Greenspun with an experienced criminal background should have known this was an opportunity to prove without a reasonable doubt, Petitioner was innocent, however, he did not ask her any further questions and excused her. At that time, there were no words to express Petitioner's hopelessness and helplessness for having put all Petitioner's trust and faith into three attorneys and now Petitioner was once again, found guilty for a crime she did not commit.

In the Virginia Court of Appeals, on June 1, 2010, the Honorable Judge Rossie D. Alston, Jr. wrote the opinion that denied the appeal for Petitioner. Petitioner appealed this opinion for reconsideration, and on September 24,

2010, Petitioner was denied. There has never been any evidence to support that the Petitioner was anywhere near Miss Roth or any loud shouting occurred. With all due respect to the opinion of the lower Court, the opinion was based on no facts and suppression of exculpatory material. How does "case law dictate", if there were "no earlier words by Petitioner" she is guilty? The opinion was based on inferences, not deduced from fact, questionable coaching by Mr. Williams in Court. "hearsay" or vagueness of the testimony of "one witness", in a criminal case is fundamentally in error due to "no facts" and goes to the heart of the case. This error had probable impact on the outcome and affirmed Petitioner's wrongful conviction. Lower Court stated, "case law dictates that we consider the appellants' touching of Roth's shoulder in the context of appellant's earlier words and conduct." With all due respect to the lower Court; on appeal, "the appellant", were the words of Mr. John Davidson, Petitioner's appellate counsel, not the Petitioner. Mr. Davidson was to defend the Petitioner. Mr. Davidson was to speak on Petitioners behalf, Mr. Davidson was to defend Petitioner's interest, however it would appear; he too contributed to Petitioners wrongful conviction. Mr. Davidson also knew of the suppressed information and arguably, Mr. Davidson must have misled the lower Court with inaccurate facts for the lower Court to infer these "utters and conduct." There has never been any omission that Petitioner ever spoke or touched Miss Roth. Lower Court just got it wrong, and Mr. Davidson's performance fell below an objective standard of reasonableness. Petitioner was not included to hear oral teleconference arguments, and relied on the strength of a scholar of law to attack the inconsistencies of the trial transcript and defend Petitioners innocence. Unfortunately, Mr. Davidson's attention was focused on the definition of "assault and battery" rather than the

violations, of Petitioners constitutional rights. Under *Brady v. Maryland*, prosecutors have a constitutional obligation to provide the defense with exculpatory material. The lower Court made an inference based on "hearsay" and a witness that needed coaching when asked "what he witnessed?" Within the text of the trial transcript there is no statement or omission by the Petitioner that she touched Miss Roth or spoke to her in a loud, ugly manner.

The Petitioner has remained consistent with the events of the day. Additionally, according to the lower Courts opinion, "on appeal, Petitioner argues that she touched Roth." Based on the lower Courts interpretation, the trial transcript cannot support this opinion because there is no statement of touch, to the end, how can a law be dictated, when there is no evidence to support the lower Courts opinion. Within the trial and oral arguments the omission to identify when and where these words were uttered, has caused get harm and injury to the Petitioner since this wrongful allegation has been directed at the Petitioner. Lower Court concluded that "Case law dictates that we consider Petitioners touching of Roth's shoulder in the context of Petitioners earlier words and conduct." The inference that any act of touching occurred is an error and there are no facts to support this opinion. These words must be words from Petitioner's appellate attorney, Mr. John Davidson; they were not words from the Petitioner. Mr. Davidson knew of the sign affidavit, of Mr. Ali Akbar and he knew of the conflict of interest in both trial and Circuit Court. The appeals process would have allowed for a reversal of conviction, had these elements of truthfulness come forward versus looking to define charges with no merit to the case.

Petitioner believes the statements and the accuracy of the events are clearly not consistent between Miss Roth and Mr. Williams and go beyond any reasonable account of the day, except they both were not telling the truth in Court. The trial transcript is evidence, they gave inaccurate statements.

REASONS FOR GRANTING THE PETITION

I. With all due respect to the lower Court's opinion, there are "no facts or ample evidence," to defend the opinion in which the lower Court states, "case law dictates" in the context of "Petitioner's earlier words" there are no earlier words spoken by the Petitioner. This case is not about an assault and battery; it is an all out effort to protect a wrongful arrest by an Alexandria Police Officer who violated Petitioner's civil right 42 U.S.C. § 1983. Hence, the Commonwealth has maliciously prosecuted the Petitioner to prevent her from filing a civil rights law suit against an Alexandria Police Officer and the Commonwealth. The Commonwealth is immersed with ethical and prosecutorial misconduct seeded with constitutional violations of the IV, V, and VI Amendments, *U.S. v. Bagley*, *Brady v. Maryland; U.S. v. Stevens*, *Brogan v. U.S*, and *Miranda v. Arizona*.

A. The Commonwealth failed to provide any evidence or fact beyond a reasonable doubt for a guilty conviction, which subsequently has caused grievous damage to Petitioner's professional reputation which is irreplaceable. Mr. Carroll, the

Honorable Judge Bracken, and Miss Roth had conflicts of interest that violated ethical codes of conduct and Judicial Canon code, yet no one will take notice. As the U.S. Constitution Framers understood: How do we ensure that people are not convicted of crimes they haven't committed? That is the purpose of the Sixth Amendment is to protect the innocent from being convicted and punished.

Arguable, by granting the Petitioner's Writ of Certiorari, The U. S. Supreme Court would set forth the posture the U. S. Constitution Framers intended to be followed in the U.S. Constitution 1) that "no one is above the law", even Judges, especially those in lower Court's to blatantly dismiss a willful illegal act by a Police Officer and a civil right violation 42 U.S.C. § 1983; 2) affirm the "law of the land" that honors those who uphold it, and redress those with whom their unethical conduct is improper for those who hold the offices in the judicial system: Rules of Ethical Conduct and Canon Laws; 3) affirm that prosecutorial misconduct will not be tolerated and is unacceptable as outlined by the American Bar Association standards; 4) speak to future judges about their obligation to protect the innocent and bring justice to the guilty by honoring our Founding Fathers with loyalty to the U.S. Bill of Rights Fourth, Fifth and Sixth Amendments. John Adams elegantly would have articulated his frankness while defending the British soldiers in Boston, "Would it not better for a guilty man to go free, than to convict an innocent man for a crime in which he did not do?" Lastly, 5) set a precedent that the U.S. Supreme Court will no longer agree to the indifference and boldness

of the justice system to defy established mandates as a *Brady* violation, dismissal of the *Miranda* warning, and impudence of 42 U.S. C. § 1983.

Was it in the best interest of the Petitioner and the Commonwealth to bring a wrongful arrest to trial? This case has never been about an "assault and battery," it has been about a "cover up" of an abusive Alexandria Police Officer, and layers of stratified legal prosecutorial misconduct to avoid the Commonwealth involvement in litigation due to the wrongful arrest of an innocent victim. The Petitioner without any hesitation spoke to the police, and after General District court, after being convicted, successfully passed a polygraph conducted by a former FBI profiler special agent. (Appendix G). When the police and USPS inspectors entered the Petitioner's clinic, "the Police" and "USPS inspectors" had already taken a report by Miss Roth and Mr. Williams, so the Petitioner was a person suspected of committing a crime and the police were required to have warned her of her constitutional rights as an individual under the rule of *Miranda v. Arizona*, before interrogation in those instances where, even though no formal arrest (with or without a warrant) has been made, the investigating officers have established in their minds a "probable cause" to believe that this person has committed a crime and have "focused in" on a further specific investigation of her on that basis. 42 U.S.C. 1983 states," if a person is deprived of rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable."

Commonwealth's display of discrimination and inequitable treatment with Miss Roth and Mr. Williams is shameful; do they not have the decency to tell the truth? Miss Roth and Mr. Williams refusal to be administered a polygraph would have established their truthfulness with their accounts of the alleged assault; however neither were administered a polygraph. It would have been in the best interest of the Commonwealth to have gathered their evidence before they proceeded to convict an innocent person. The burden of proof was on the prosecutor, who had not collected; or presented any compelling evidence to support a conviction, and as a result of Petitioner's lack of defense counsel, Petitioner never stood a chance. Under the Bill of Rights Sixth Amendment, the Petitioner was never given the right to confront her accusers. All information was hearsay, and yet a Police Officer, who took this information, knowing it was hearsay, the following day, with nothing to support their claims, made a judgment of a guilty verdict, due to hearsay. The Commonwealth displayed very little regard to the justice system to gather hearsay as evidence to seek a conviction. Mr. Williams gave Officer Candiff a report, it was hearsay, and Officer Candiff took that information as well as Miss Roth statements, all hearsay, and entering the Petitioners clinic with bias to seek a summons with only hearsay. Officer Candiff did not witness this crime, and yet Officer Candiff made a conscious effort to serve the summons to the Petitioner based only on hearsay. The Petitioner was never allowed to confront either Miss Roth or Mr. Williams in Court to challenge the veracity of their stories and the Petitioner's counsel(s) also failed to challenge the veracity of their stories. As the U.S. Supreme Court put it *Pointer v Texas:*

> It cannot seriously be doubted at this late date that the right of the cross-examination is included in the right of an accused in a criminal case to confront the witnesses against him. And probably no one, certainly no one experienced in the trial of lawsuits, would deny the value of cross-examination in exposing falsehood and bringing out the truth in the trial of a criminal case....The fact that this right appears in the Sixth Amendment of our Bill of Rights reflects fundamental right essential to a fair trial in a criminal prosecution. [sic]

Did the Commonwealth lose sight of the subsequent grievous damages to Petitioner's professional reputation which is irreplaceable? Petitioner's professional standing and residency for a doctoral degree is no longer attainable due to a criminal record. The presumption of innocence is the one principle that one is considered innocent until proven guilty is a legal right of the accused in a criminal trial. The Petitioner was never given the presumption of innocence since this tragedy began, the following day; the USPS terminated all mail to the Petitioner's clinic.

In criminal cases, the trial judge's initial decision is guided by statutory factors including: 1) the nature and circumstances of the offense; 2) the history and characteristics of the defendant; 3) the need for the sentence imposed to reflect the seriousness of the offense; 4) the kinds of sentences available (statutory limits and guidelines ranges); and 5); the need to avoid unwarranted sentencing disparities. The Commonwealth's duty is to disclose favorable evidence to the Court under *Brady v. Maryland*, and has become one of the most un-enforced constitutional mandates in criminal law. In *Berger v. United States*, the Supreme Court described the prosecutor as "the representative not of an ordinary party

to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. The court said the prosecutor's job is not only to prevent the guilty from escaping, but to prevent the innocent from suffering. Additionally, almost a decade later, the Supreme Court again considered the issue of prosecutors failing to disclose favorable evidence to the defense that had an impact on the outcome of the case." In *United States v Bagley* in 1985, the Supreme Court rejected the distinctions between specific requests and no request for exculpatory evidence and adopted a single materiality standard *United States v. Bagley.* A *Brady* violation is a due process violation. In *Ex Parte Adams*768 S.W. 2sd 281, 293 (1989), the Texas Court of Criminal Appeals stated, "It is the courts fundamental and constitutional purpose to ensure that a convicted defendant receives a fair trial. The intention or bad faith withholding of *Brady* evidence is by far the most egregious type of *Brady* violation and has led to wrongful convictions, near executions, and other miscarriages of justice.

B. Commonwealth's prosecutorial misconduct was a failure to consider the facts and law relating to this particular matter; it was an arbitrary or unreasonable departure from precedent and settled custom. Petitioner's due process was violated by suppressing exculpatory material, the police report, and Petitioner, after trial began, unknowingly waived the right to a jury trial. This tactic was used to secure a wrongful conviction for a successful female Nurse Practitioner was unwarranted, cruel and has caused

Petitioner great suffering and great punishment. *N.C. State Bar v Nifong*, *Brady v. Maryland; U.S. v. Stevens*, and *Miranda v Arizona.*

In lower Court, Petitioner, having never been involved in a trial, was truly ignorant that a criminal charge carried a $2,500.00 fine and a one year jail sentence. While in trial Court, the Judge must exercise his discretion in deciding a verdict, it must do so in a way that is not clearly against logic and the evidence is beyond a reasonable doubt. To guarantee a person due process with a trial by jury; is not a decision that should be done after court begins. The decision should have been discussed and made, prior to trial. The Commonwealth and defense counsel (s) suppressed evidentiary material. Both Ms. Roth and Mr. Williams had given written statements to the USPS inspectors, yet these statements were never introduced into Court. The statements, on their own, are filled with inconsistency. The Alexandria Police report was never introduced, and the Police Officer was never questioned about his participation in a 42 U.S.C. § 1983 violation and her *Miranda* warning. Fundamental principles of the Courts are fairness and competent judges who are not to disregard evidence such as a police report or inconsistent written statements. The right to counsel and the right to a fair trial are written into the Constitution as part of the Sixth Amendment. "The core of due process is the right to notice and a meaningful opportunity to be heard," wrote Chief Justice Rehnquist

Judge (s) and attorney (s) as cited by The American Bar Association have standards for professional behavior that require defense counsel (s) to consider collateral consequences of a criminal conviction. Judges also are to consider collateral consequences when an innocent person is wrongfully convicted. The end result may never

be undone and the Petitioner's reputation destroyed. Petitioner now suffers collateral consequences of social stigma and disapproval in Petitioner's medical profession. Petitioner is not allowed to complete a doctoral residency for a research clinical doctoral degree, lessened collegial desirability in Petitioner's doctoral program; decease in trust by the Petitioner's community, humiliation by criminal charge as it is circulating on the internet, a label of a crime not committed, and financial collapse of Petitioner's small business, a community clinic.

Generally, a judge must recuse himself if he has a personal bias or prejudice concerning a party to the court case or has personal knowledge of the facts that are disputed in the proceeding. The Code of Judicial Conduct, a judicial ethics code drafted by the American Bar Association in 1972 outlines situations in which a judge should disqualify himself from presiding over a matter. *Canon 3C* of the Judicial Code outlines these situations, including the judge's personal bias or prejudice toward a matter or its participants, personal knowledge of the facts that are disputed in a case, a professional or familial relationship with a party or an attorney, or a financial interest in the outcome of the matter. Most interpretations of the code mandate a judge's disqualification or recusal if any of these factors are present. The American Bar Association, mindful that the character and conduct of a Judge should never be objects of indifference, and that declared ethical standards tend to become habits of life, deems it desirable to set forth its views respecting those principles which should govern the personal practice of members of the Judiciary in the administration of their office. The Association accordingly adopts the following Canons, the spirit of which it suggests as a proper guide and reminder for judges, and as indicating what the people have a right to expect from them.

In Senator Steven's indictment, *U.S. v. Stevens*, the Public Integrity Section Lawyers who investigated and prosecuted Stevens would face investigation and possible prosecution for obstruction of justice due to their own acts of nondisclosure of information.[1] In fact, following the prosecutor's repeated acts of concealing, altering and falsifying critical evidence in the Stevens case, the trial judge rhetorically asked the prosecutors, "How does the court have confidence that the Public Integrity Section has public integrity?"[2] The prosecutor is an agent of the Commonwealth, his task is not limited to obtaining a conviction. The prosecutor's job is to do justice. Doing justice means that the prosecutor should attempt to convict only those who actually are guilty, not simply those against whom a conviction can be obtained. It also means that the prosecutor is required to uphold the law, including all of the laws that make it difficult to obtain a conviction.[3]

C. The standards of the American Bar Association are written to hold lawyers accountable for reporting another lawyer's prosecutorial misconduct. Model Rules of Professional Conduct Rule: 3.8, *Brady v. Maryland*, *U.S. v. Stevens*, *Strickland v. Washington*, and Va. Judicial Canon[3] (a,b,c,d,e,f)

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[1] Transcript of Motion Hearing at 4-5, 45-46, United States v. Stevens, 593 F. Supp. 2sd, 177 (D.D.C. 2009)

[2] Neil A. Lewis, Justice Dept. Moves to Void Stevens Case, N.Y. Times, April 2, 2009, at Al, available at http://www.nytunes,com/2009/04/02/us/politics/02stevens.html

[3] *Brady v. Maryland*, 373 U.S. 83, 87 (1963). A Brady violation occurs when (1) a prosecutor fails to disclose evidence (2) that would be favorable to the accused (3) creates a probability sufficient to undermine confidence in the proceeding's outcomes.

The American Bar Association's mission is to serve the public by defending liberty and delivering justice as the national representative of the legal profession. Their goals are to increase public understanding of and respect for the rules of law, the legal process, and the role of the legal profession, hold governments accountable under law, work for fair legal process and assure meaningful access to justice for all persons, while preserving the independence of the legal profession. Both Mr. Carroll and the Honorable Judge Bracken had an intimate relationship and Miss Roth is Mr. Carroll's mail carrier. This clearly is a conflict of ethics and conflict of interest that departs from a fair trial without bias. Moreover, Mr. Greenspun and Mr. Albrenio failed to address this and is another example of their failure to defend the Petitioner. Mr. Davidson, the Petitioner's appellate counsel, with knowledge, that Petitioner's patient had been told to "stay out of court" most probably could have changed the outcome, due to an error in the lower Court and he also failed to address this and failed to defend the Petitioner.

The American Bar Association outlines situations in which a judge or lawyer should disqualify himself from presiding over a matter. The American Bar Association, mindful that the character and conduct of a lawyer should never be objects of indifference, and that declared ethical standards tend to become habits of life, deems it desirable to set forth its views respecting those principles which should govern the personal practice of members of the Judiciary in the administration of their office. Rule of Professional Codes 3.8's scope draws in various and sundry forms of prosecutorial behavior in criminal cases. Rule 3.8 has seven distinct categories of prosecutorial behavior and is aimed solely at the criminal prosecutor. The unique distinction is that Rule 3.8 is best

captured in "a prosecutor has the responsibility of a minister of justice and not simply that of an advocate." The prosecutor is to ensure that justice is done for all. Petitioner has been mocked by defense counsel (s), deceived, and misrepresented by the Commonwealth.

Petitioner was convicted and fined $50.00 without jail time, but in reality the fine could have been a maximum fine of $2,500.00 and a 12 month maximum term of incarceration. Petitioner wrote a letter to the Honorable Judge Brown, within the 21 days of judgment, Miss Roth, had come forward and wanted to recant her charge and modify her testimony. The Honorable Judge Brown denied Petitioner's request for a new trial. (Appendix H).

This begs the question, without any evidence or facts, why would the Honorable Judge Brown deny a new trial? Miss Roth wanted to recant her story and had come forward with new information that would have changed the outcome of the trial. Petitioner suspects, "Petitioner had to be found guilty", suitable for the wrongful arrest, due to a 42 U.S.C. § 1983 violation and had the verdict been "not guilty" both the Police Officer and the Commonwealth would have committed a miscarriage of justice by a senseless arrest that resulted in a malicious prosecution. Defense counsels have marginalized the outcome with ridicule; as was witnessed by Ms. Smith and Dr. Field (Appendix I) a criminal record has now caused grievous damage to Petitioner's professional reputation which is irreplaceable. In Circuit Court, Mr. Greenspun and Mr. Albrenio pressured the Petitioner to accept a guilty conviction, of an act that Petitioner did not do, and strongly recommended that she plea down to a lesser charge, for "disorderly conduct" which is still a criminal conviction. In Circuit Court, Mr. Greenspun all but "sent her to jail" Trial transcript [Page 170, line

3-14], Mr. Greenspun suggests a small fine, rather than a jail sentence, (Good God, had he forgotten, this was a criminal charge, why would he suggest a fine, for a crime Petitioner did not do). In layman's terms, it would be like being a little pregnant....there is no such condition, and either Mr. Greenspun was for Petitioner or against Petitioner, but he certainly did not represent the Petitioner! Petitioner was owed that much! This is another example of Mr. Greenspun's lack of ethics and responsibility for his client's interest. Mr. Greenspun is an experienced criminal attorney, what was his intention to seek a small fine for his client; the outcome was still a criminal guilty charge.

Petitioner retained Mr. Greenspun, Mr. Carroll, Mr. Albrenio and Mr. Davidson; all are scholars of law, they each took an oath to uphold the U.S. Constitution. When they took the Petitioner's money and agreed to assist Petitioner, Petitioner expectation's were that they would honor their word, and not breach a contract by being so irresponsible. Petitioner trusted her life, liberty and pursuit of happiness with them. They each have earned a law degree and understood the interpretation of the Sixth Amendment. It simply says: all are guaranteed a speedy trial with counsel. In the appeals process, Mr. Davidson, was Petitioner's appellate counsel, he was to speak on Petitioner's behalf, Mr. Davidson was to defend Petitioners interest, however it would appear; he too contributed to Petitioners wrongful conviction. Arguably, Mr. Davidson must have misled the lower Court with inaccurate facts for the lower Court to render an opinion that denied a favorable outcome. The right to counsel is a guarantee; as the U.S. Supreme Court put it in *Pointer v. Texas*....the belief of the U.S. Constitution Framers and a safeguard that is a fundamental right essential to a fair trial in a criminal prosecution.

If a lawyer has knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, that lawyer shall inform the appropriate professional authority." There are four elements that need to be met to establish prosecutorial misconduct. 1) Lack of duty that the attorney owned the Petitioner, a duty to act properly and with knowledge of the case and defend the Petitioner; 2) breach of duty that is owed to the Petitioner, was the Petitioner ever defended 3) negligence of the attorney either through a mistake or a promise not kept; and 4) causation or lack of competent counsel (s) that has caused the Petitioner cruel and unusual punishment. Mr. Carroll, Mr. Greenspun, Mr. Albrenio, and Mr. Davidson all met the four elements of prosecutorial misconduct. Would a stern letter of reprimand suit their misconduct? Petitioner believes, much like Mr. Nifong, *N.C. State Bar v Nifong*, these attorney's and the Commonwealth should be disbarred. The damages that they have done to the Petitioner's life, liberty and happiness, should never ever be allowed to happen to anyone else again. It is a double standard in the Commonwealth. It is equally disturbing that a Police Officer is allowed to bully innocent people. Officer Candiff needs to be removed from his police duties due to his misuse of police authority. It is much like an alcoholic, when someone is stopped for a DUI, does anyone actually think that is the first time this person has been behind the wheel after drinking? Logically, no, but as a society, unless those in authority are willing to set precedent, attorneys will continue to rob innocent people of their money, not defend the person and the police officers will harm others by wearing a badge and misuse of authority.

In *Strickland v. Washington*, the Supreme Court explored deficient counsel with respect to collateral consequence of criminal convictions. *Strickland* did not mandate consideration of collateral consequences but established a two prong test to evaluate counsel for performance. It is Petitioner's contention that counsel(s) failed the two prong test. Counsel'(s) performance fell below reasonable standard that contributed to a wrongful conviction, and counsel did not exercise fiduciary obligation nor act in Petitioners best interest. The absence of the key witnesses, lack of depositions, and securing subpoenas was of no distress to counsel. There was reasonable probability, had the witness(s) attended Court, this wrongful allegation would have ended in General District Court.

D. The Governor and Attorney General of the Commonwealth should be given the opportunity to defend the Commonwealth's lack of concern for a wrongful arrest that resulted in a wrongful conviction, due to a "tragic rush to accuse," that has caused Petitioner cruel and unusual punishment. *N.C. State Bar v Nifong*.

Petitioner sent the Attorney General two letters (Appendix J) requesting his assistance, Petitioner was told he would not speak to her without her being represented by counsel. Petitioner called the Governor's office and Mr. McDonnell would not help nor would he look into the matter of a wrongful arrest and malicious prosecution.

The Supreme Court shall, by virtue of this Constitution, have original jurisdiction in cases of Writs of Certiorari, and may compel a lower court to perform mandatory or purely ministerial duties correctly. The

question of jurisdiction is dependent upon the decision of a constitutional question in the lower court. Jurisdiction may be conferred upon the Supreme Court by virtue of the constitutional provision "in cases involving the constitutionality of a law as repugnant to the Constitution of the Commonwealth or of the United States," it must appear that the constitutionality of the law was called in question and decided in the trial court. *Hulvey v. Roberts.*

The trials were based around definition rather than fact. Due to Petitioners ignorance of the law, and trust in her counsels, Petitioner was unaware and not advised of this secondary authority in absence of a law by the Attorney General. According to Judge J. Sutherland, *Powell v Alabama*, the basic elements comprising due process for law according to the Constitution are notice and hearing together with a competent tribunal having jurisdiction of the case. A hearing includes the right and aid of counsel when so desired. The ordinary layman, even the intelligent and educated layman, is not skilled in the science of law and needs the advice and direction of competent counsel.

Mr. Greenspun stated, "It is only a $50.00 fine, and you did not go to jail" No, it is not! It is a criminal record that has defamed and damaged Petitioner's good name and medical reputation. Petitioner is financially drained and emotionally laden with the collateral consequences that the Commonwealth has impugned as a crime of hate, prejudices and discrimination. The illegal activity of the police, the ability for two postal workers to make up a tale, and allow one police officer to arrest a person on a criminal charge with only "hearsay" is not only an insult to our justice system, it begs the question, how many more persons can "bloody their hands" in an attempt to destroy one person, her successful business

and her medical reputation. A more recent example of prosecutorial misconduct took national notice in the 2006 Duke University lacrosse case. The actions of the prosecutor in this case, Mr. Nifong, drew enormous criticism, as he proceeded with the case despite numerous inconsistencies in the accuser's story, all charges were dropped, but the North Carolina Attorney General took the unusual steps, and became involved in a case that should never have gone to trial, but for that, The North Carolina State Bar eventually disbarred Mr. Nifong for his actions during this case. Petitioner is not a "high profile case," and was treated accordingly. It was clearly reaching on both counsels and Commonwealth to take this case to court, without any evidence, only hearsay, and inconsistent testimony. Both defense counsels and Commonwealth are guilty of negligence and suppression of written statements.

E. An error at trial departed from precedent and established judicial custom has publicly humiliated and disparaged Petitioner, a successful Nurse Practitioner. Petitioner has suffered great financial and emotional harm due to the unmitigated damages to her medical reputation, good name, community standing, denial of doctoral degree residency, and right to work. *Model Rules* of Professional Conduct Rule 8.3, N.C. *State Bar v Nifong*, *Brady v. Maryland, and U.S. v. Stevens*.

Mr. Carroll, Mr. Greenspun, Mr. Albreino, and Mr. Davidson all knew the consequences and seriousness of a charge of a criminal conviction for the Petitioner, yet every time Petitioner asked how this would affect her professional standing, their attitude was very noncommittal. For no other reason than their lack of

sincerity and what would have seemed like more "due diligence," Petitioner believes counsels all committed prosecutorial misconduct in their lack of defense for her innocence. Presently, the Court of Appeals opinion is circulating on the internet, and has not only humiliated Petitioner it has caused collateral damages that may never be undone. Due to counsel's lack in legal expertise, Petitioner has suffered great personal and financial damage. The Commonwealth of Virginia's Department of Health and the Department of Professionals, (90-55/QHC-029) is devoted to medical providers who have committed a criminal offence. Petitioner's professional standing and academic goals are no longer attainable unless the U.S. Supreme Court will grant the petition be heard. Petitioner has continued to fight for her good name and her medical reputation but the mission of the clinic will be over. The Petitioner has spent over $75,000 in legal fees trusting the Commonwealth to amend the wrongful conviction. Due to the criminal conviction, Petitioner has lost an awarded Commonwealth of Virginia Nurse Educator scholarship of $40,000. The Commonwealth of Virginia has withheld the awarded scholarship funds, knowing Petitioner was anticipating needing the funds to attend her doctoral studies. Petitioner has lost $95,000 in operational revenue due to the disparaging internet comments, which have discredited her professional skills which subsequently has caused grievous damage to Petitioner's professional reputation which is irreplaceable. Petitioner has had to borrow over $30,000 for her doctoral didactic studies, and because Petitioner now has a criminal record, Petitioner's residency requirement cannot be completed. Petitioner will not be awarded her doctorate degree (Doctor of Nursing Practice) as anticipated in May of 2011. The emotional and financial harm has been overwhelming. After 40 years of medical service, Petitioner's medical reputation is ruined. The

US Supreme Court is Petitioner's last hope to have this wrongful conviction reserved. Queen Street Clinic will be forced to close, and for 22,000 poor and unemployed Hispanic and African American, they will be without a medical home. *Model Rules* of Professional Conduct Rule 8.3, and 42 U.S.C. § 1983.

According to the Court of Appeal, "when verdicts in a non-jury trial are factually inconsistent the due process clause of the Fourteenth Amendment does not permit a conviction to stand." In law, every rule has an exception. The exception to the failure-to-raise rule is the plain error rule. The appellate court can always correct plain error or "defects affecting substantial rights" that occurred at the trial, even if the defendant did not raise the issue below. Petitioner's pleas to have the Appeals Court of Virginia acknowledge an error in Court was denied. In case laws, courts have found that evidence is material if "there was a reasonable probability that, had the evidence been disclosed to the Court, the result of the proceeding would have been different." Furthermore the Court expanded the definition of favorable to include both exculpatory and impeachment evidence, because such evidence is "favorable to the accused," so that, if disclosed and used effectively, it may make the different in a verdict. The Commonwealth and defense counsels' intentional *Brady* misconduct falls within the scope of the "Consciousness of a weak case inference". Given that the Commonwealth always has the burden of proof in a criminal case, evidence that the Commonwealth's case is weak is relevant to whether the Commonwealth did prove guilt beyond a reasonable doubt. Was Honorable Judge Brown in error, not to allow a retrial, when the accuser was ready to recant her charge and modify her charges?

F. While detained in Petitioner's clinic, and witnessed by patients and an attorney, Petitioner was excessively interrogated for two hours by two Alexandria Police Officers and two USPS inspectors, in uniform with guns in view, would most likely induce undue psychological trauma and pressure, since Petitioner did not know she had the "freedom be to leave her property". This is a violation of Petitioner's constitutional rights and departure of a *Miranda* warning. 42 U.S. C. § 1983, *Krupp v Texas*, *United States v. Mendenhall*, and *Miranda v. Arizona*.

On February 5, 2009, two Alexandria police officers, unannounced, entered Petitioner's clinic, for two hours questioned Petitioner with the assistance of two USPS inspectors. Petitioner answered questions, and at the time, did not know she could ask "police and inspectors" to leave. Petitioner was ignorant of her constitutional rights and continued to answer their questions. The police were verbally threatening, called Petitioner names and accused Petitioner to just admit to the crime. Police repeatedly called her a liar saying, "We know a liar when we see one, and just because your father just died you think you can beat up people." This was witnessed by patients, one Alexandria attorney, and others in the clinic. These four investigators, interviewed neighboring residents, and did not learn of any unusual loud or disruptive behavior the day of the alleged event. Daily, 40,000 cars travel this same street, that Petitioner was to have been placed, yet not one person witnessed Petitioner's accused actions. After two hours of questioning, Police forced Petitioner to sign a summons (Appendix D) or be taken to jail until she would be arraigned the following week. Bill of

Rights, Fourth, Fifth, and Sixth Amendments, *Miranda v. Arizona*, *United States v. Mendenhall*.

In a criminal prosecution a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, and to call for evidence in his favor, and he shall enjoy the right to a speedy and public trial, by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty. He shall not be deprived of life or liberty, except by the law of the land or the judgment of his peers, nor be compelled in any criminal proceeding to give evidence against himself, nor be put twice in jeopardy for the same offence. Va. Const. Art, § 8. Petitioner seeks justice in the "Fundamentals of Fairness" standards enforced by State and federal governments and more specifically the *Miranda* Warning. In *United States v. Mendenhall*, the Court "adhere[d] to the view that a person is 'seized' only when, by means of physical force or a show of authority, his freedom of movement is restrained" *Mendenhall*. The Court concluded that an unreasonable seizure occurs

> If in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave. Examples of circumstances that might indicate a seizure, even where the person did not attempt to leave, would be the threatening presence of several officers, the display of a weapon by an officer, some physical touching of a person of the citizen, or the use of language or tone of voice indicating that compliance with the officer's request might be compelled. *Mendenhall*. [sic]

To allow police officers or other government official to conduct searches and seizures at their own discretion would result in the arbitrary unjustified intrusions that

the U. S. Constitution Framers feared. *Payton v. New York*. Petitioner was "deprived of her freedom" in a "significant way," and thus was subjected to "custodial interrogation" without any prior warning that she was entitled to counsel or the *Miranda* warning. The Fifth Amendment is designed to assure that the government does not extract testimony by force or fraud. It also is applied as well to see that the government does not exert undue psychological pressure on suspects. Detaining a person, without their knowledge, for a custodial interrogation intrudes so severely on interest protected by the Fourth Amendment to safeguards against illegal arrest. The Sixth Amendment has been committed to the "right of the defendant," "to be informed of the nature of the accusation," "the right to confront witnesses against them," to have "compulsory process," for obtaining witnesses, and the right to the "assistance of counsel" The *Miranda* warning is required to be given by police in the United States to criminal suspects in police custody (or in a custodial situation) before they are interrogated, in accordance with the *Miranda* ruling. Its purpose is to ensure the accused is aware of, and reminded of, these rights under the U.S. Constitution, and that they know they can invoke them at any time during the interview. *Kaupp v Texas*, the Court found that a reasonable person in Kaupp's position would not have believed he was free to leave or otherwise terminate the police encounter. Justice Hugo Black once noted that, in America the defendant "has a fundamental right to remain silent, in effect challenging the State at every point to "Prove it!", and by limiting the powers of the police."

CONCLUSION

For the forgoing reasons, the Court is requested to enter its order that the judgment of dismissal be reversed or that this Petition for Writ of Certiorari be granted.

Respectfully submitted,

Anne Boston Parish
208 West Walnut Street
Alexandria, Virginia 22301
793-299-1795
abparish@msn.com
Pro se

APPENDIX

APPENDIX A

IN THE SUPREME COURT OF VIRGINIA
HELD AT THE SUPREME COURT BUILDING
IN THE CITY OF RICHMOND ON
FRIDAY THE 24TH DAY OF SEPTEMBER, 2010.

Anne Boston Parish,

Appellant,

against Record No. 101199
Court of Appeals No. 1435-09-4

Commonwealth of Virginia,

Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 22nd day of July, 2010 and grant a rehearing thereof, the prayer of the said petition is denied.

Justice Mims took no part in the consideration of this case.

A Copy,

Teste:

Patricia L. Harrington, Clerk

By: /s/: Elly Edwards
Deputy Clerk

IN THE SUPREME COURT OF VIRGINIA
HELD AT THE SUPREME COURT BUILDING
IN THE CITY OF RICHMOND ON
THURSDAY THE 22ND DAY OF JULY, 2010.

Anne Boston Parish,

Appellant,

against Record No. 101199
Court of Appeals No. 1435-09-4

Commonwealth of Virginia,

Appellee.

From the Court of Appeals of Virginia

The Court dismisses the petition for appeal filed in the above-styled case for lack of jurisdiction. Code § 17.1-410(A) (1) and (B).

Justice Mims took no part in the consideration of this case.

A Copy,

Teste:

Patricia L. Harrington, Clerk

By: /s/: Shirley Ward
Deputy Clerk

APPENDIX B

COURT OF APPEALS OF VIRGINIA

Present: Judges Beales, Powell and Alston
Argued by teleconference

ANNE BOSTON PARISH

v. Record No. 1435-09-4

COMMONWEALTH OF VIRGINIA

OPINION BY
JUDGE ROSSIE D. ALSTON, JR.
JUNE 1, 2010

FROM THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

J. Howe Brown, Jr., Judge Designate

Robert Bell (John E. Davidson; Davidson & Kitzmann, PLC, on briefs), for appellant.

Alice T. Armstrong, Assistant Attorney General II (Kenneth T. Cuccinelli, II, Attorney General, on brief), for appellee.

Anne Boston Parish (appellant) appeals her conviction for assault and battery, in violation of Code § 18.2-57. On appeal, appellant contends that (1) the evidence was insufficient to find that appellant intended to inflict fear of bodily harm, and thus the evidence was insufficient to sustain appellant's conviction for assault; and (2) the evidence was insufficient to find that appellant intended to inflict bodily harm, and thus the evidence was insufficient to sustain appellant's conviction for battery. For the reasons that follow, we affirm appellant's conviction.

I. BACKGROUND

In determining whether evidence is sufficient to support a conviction, we view the evidence "in the light most favorable to the Commonwealth, granting to it all reasonable inferences fairly deducible therefrom." *Sandoval v. Commonwealth*, 20 Va. App. 133, 135, 455 S.E.2d 730, 731 (1995).

The evidence showed that on February 4, 2009, at approximately 2:00 p.m., United States Postal Service employee LaNeta Roth was delivering mail at the 300 block of North Patrick Street and the 1000 block of Queen Street, near appellant's place of business. As Roth delivered the mail, appellant, who was standing near her office, which was across the street from Roth, began yelling and demanding her mail. Appellant called Roth a "dumb blond bitch" and "an idiot," and stated, "Hurry up[.] I need my mail[.] I'm trying to go home." Roth told appellant she would deliver her mail momentarily and continued on her assigned route.

Roth continued along Queen Street until she reached appellant's address, which was the last stop on the route. At that point, appellant was "screaming" at Roth and demanding her mail. Roth told appellant that she would not deliver her mail because appellant had called her names, and informed appellant that she would have to call the post office to collect her mail. Roth then turned and was walking across Queen Street when appellant grabbed her left shoulder and pulled her back. Roth testified that appellant pulled Roth's hair, twisting her head and body around until Roth faced appellant. Fellow postal employee Robert Williams witnessed these events.

Roth screamed for help, jerked loose from appellant's grip, and ran down the block. Roth retreated to the 400 block of Patrick Street and called the post office to

report the altercation. Williams followed Roth and found Roth crying. Roth was visibly shaken and upset when she returned to the post office and spoke with her supervisor that afternoon.

Appellant moved to strike the evidence at the conclusion of the Commonwealth's case-in-chief, arguing that the Commonwealth had not proven appellant's "intent to harm," and thus had not put forth sufficient evidence to prove assault and battery. The trial court denied the motion to strike. In closing remarks, appellant again argued that the Commonwealth failed to prove assault and battery by failing to prove intent to harm.

The trial court found appellant guilty of assault and battery, in violation of Code § 18.2-57. This appeal followed.

II. ANALYSIS

A. Procedural Default

On appeal, the Commonwealth argues that appellant did not properly preserve her arguments for appellate consideration. The Commonwealth argues that, at trial, defense counsel agreed to the trial court's definition of assault and battery, and appellant may not object to that definition on appeal.[1] The trial court defined assault and battery as "[a]n unwanted touching, however slight, done

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[1] The Commonwealth points to a conversation between the trial judge and defense counsel during defense counsel's motion to strike as evidence that defense counsel agreed to the trial court's definition of assault and battery. After defense counsel argued that intent to harm was a necessary element of assault and battery, the trial court stated that assault and battery is "[a]n unwanted touching, however slight, done in an angry, rude or vengeful manner." Defense counsel replied, "Right. And getting – for the purpose of getting someone's attention, . . . that's not done in an angry, rude or vengeful

in an angry, rude or vengeful manner." The trial court did not include the element of intent to harm in its definition of assault and battery.

Based on a review of the record, this Court does not consider defense counsel's statements at trial a concession to the trial court's definition of assault and battery. Because defense counsel raised the issue and made his position clear during his motion to strike and closing arguments, he properly preserved the issue. *Lee v. Lee*, 12 Va. App. 512, 515, 404 S.E.2d 736, 738 (1991) (holding that counsel can preserve objection to judgment for appellate review during a motion to strike the evidence or in closing argument). As a result, we hold that appellant preserved this issue for appellate consideration.

B. Assault and Battery

Appellant contends that the trial court erred in finding the evidence sufficient, as a matter of law, to support her conviction. "'We review questions of law, and mixed questions of law and fact, utilizing a *de novo* standard of review.'" *Dunaway v. Commonwealth*, 52 Va. App. 281, 299, 663 S.E.2d 117, 126 (2008) (quoting *Muhammad v. Commonwealth*, 269 Va. 451, 479, 619 S.E.2d 16, 31 (2005)). In a challenge to the sufficiency of the evidence, "[t]he judgment of the trial court is presumed to be correct and will be reversed only upon a showing that it is 'plainly wrong or without evidence to support it.'," *Viney v. Commonwealth*, 269 Va. 296,

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manner," before he was interrupted by a question from the trial court. The dialogue between the trial court and defense counsel continued, with defense counsel arguing that intent to harm is a necessary element of assault and battery. After further argument, the trial court denied the motion to strike.

299, 609 S.E.2d 26, 28 (2005) (quoting Code § 8.01-680; *Jackson v. Commonwealth*, 267 Va. 178, 204, 590 S.E.2d 520, 535 (2004)).

Code § 18.2-57 provides that "any person who commits a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor." Because Code § 18.2-57 does not define assault or battery, we must look to the common law definition of the terms. *Clark v. Commonwealth*, 279 Va. 636, 641, 691 S.E.2d 786, ___ (2010), *aff'g* 54 Va. App. 120, 676 S.E.2d 332 (2009) (*en banc*).

The crime of assault and the crime of battery are independent criminal acts, although they are linked in Code § 18.2-57. To sustain a conviction for assault, the Commonwealth must prove "'an attempt or offer, with force and violence, to do some bodily hurt to another.'" *Adams v. Commonwealth*, 33 Va. App. 463, 468, 534 S.E.2d 347, 350 (2000) (quoting *Harper v. Commonwealth*, 196 Va. 723, 733, 85 S.E.2d 249, 255 (1955)). The attempt or offer to do bodily harm

> "occurs when an assailant engages in an overt act intended to inflict bodily harm [while he] has the present ability to inflict such harm or [the assailant] engages in an overt act intended to place the victim in fear or apprehension of bodily harm and creates such reasonable fear or apprehension in the victim."

Clark, 279 Va. at 641, 691 S.E.2d at ___ (quoting *Carter v. Commonwealth*, 269 Va. 44, 47, 606 S.E.2d 839, 841 (2005)). "[B]ecause assault requires an overt act, words alone are never sufficient to constitute an assault." *Id.* at 641, 691 S.E.2d at ___ (citing *Harper*, 196 Va. at 733, 85 S.E.2d at 255; *Merritt v. Commonwealth*, 164 Va. 653, 658, 180 S.E. 395, 397 (1935)).

To sustain a conviction for battery, the Commonwealth must prove a "wil[l]ful or unlawful touching" of another. *Wood v. Commonwealth*, 149 Va. 401, 404, 140 S.E. 114, 115 (1927). It is not necessary that the touching "result in injury to the [victim's] corporeal person. It is sufficient if it does injury to the [victim's] mind or feelings." *Id.* at 405, 140 S.E. at 115.

On appeal, appellant argues that she touched Roth merely to get Roth's attention in order to get her mail and that this touching falls within the realm of normal human interaction and does not rise to the level of assault and battery. It is true that "[n]ot every touch is a battery," *id.*, and a touching is not a battery if it is "justified or excused," *Perkins v. Commonwealth*, 31 Va. App. 326, 330, 523 S.E.2d 512, 513 (2000) (citing *Gnadt v. Commonwealth*, 27 Va. App. 148, 151, 497 S.E.2d 887, 888 (1998); Roger D. Groot, *Criminal Offenses and Defenses in Virginia* 30 (4th ed. 1998)). "Whether a touching is a battery, depends on the intent of the actor, not on the force applied." *Adams*, 33 Va. App. at 469, 534 S.E.2d at 350 (citing *Wood*, 149 Va. at 405, 140 S.E. at 115). "One cannot be convicted of assault and battery 'without an intention to do bodily harm—either an actual intention or an intention imputed by law.'" *Id.* at 468, 534 S.E.2d at 350 (quoting *Davis v. Commonwealth*, 150 Va. 611, 617, 143 S.E. 641, 643 (1928)). The unlawful intent may be imputed if the touching is "'done in a rude, insolent, or angry manner.'" *Id.* at 469, 534 S.E.2d at 350 (quoting *Crosswhite v. Barnes*, 139 Va. 471, 477, 124 S.E. 242, 244 (1924)). "This intent may often be gathered from the conduct of the aggressor, viewed in the light of the attending circumstances." *Wood*, 149 Va. at 405, 140 S.E. at 115. Moreover, circumstantial evidence of intent may include the conduct and statements of the alleged offender. *Adams*, 33 Va. App. at 471, 534 S.E.2d at 351; *see*

also Montague v. Commonwealth, 278 Va. 532, 541, 684 S.E.2d 583, 589 (2009) (citing *Commonwealth v. Vaughn*, 263 Va. 31, 36, 557 S.E.2d 220, 223 (2002)). Furthermore, the finder of fact may infer that the assailant "'intends the natural and probable consequences of his acts." *Adams*, 33 Va. App. at 471, 534 S.E.2d at 351 (quoting *Campbell v. Commonwealth*, 12 Va. App. 476, 484, 405 S.E.2d 1, 4 (1991) (*en banc*)).

Similarly, a touching, i.e., the overt act in the assault in the instant case, falls outside the realm of normal human interaction when it is done "with the intent to place [the victim] in fear or apprehension of bodily harm." *Clark*, 279 Va. at 642, 691 S.E.2d at ___ (citing *Carter*, 269 Va. at 46-47, 606 S.E.2d at 841). When evaluating whether this intent existed, "[w]ords and prior conduct are highly relevant in shedding light on intent and the context within which certain actions transpired. A perpetrator's intent may be inferred from the nature of the overt act and the surrounding circumstances." *Id.* at 642, 691 S.E.2d at ___.

Reviewing the record in this case, the evidence was sufficient to support a finding that appellant committed assault and battery. Case law dictates that we consider appellant's touching of Roth's shoulder in the context of appellant's earlier words and conduct. Appellant shouted at Roth and insulted her for an extended period of time. Appellant was visibly angry during her interaction with Roth, and when Roth attempted to end the altercation by turning and walking away, appellant grabbed Roth's shoulder and used force to turn Roth so that the two women were standing face to face. Thus, there was ample evidence for the fact finder to conclude that the appellant touched Roth in a "rude, insolent, or angry manner," and given the context of the touching, that Roth was reasonably placed in apprehension of bodily harm.

Accordingly, since a perpetrator's intent may be inferred from the nature of the overt act and the surrounding circumstances, the fact finder was entitled to find that the evidence was sufficient to support the charge.

III. CONCLUSION

For these reasons, we hold that the evidence was sufficient to convict appellant of assault and battery, in violation of Code § 18.2-57. Accordingly, we affirm appellant's conviction.

Affirmed.

APPENDIX C

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

COMMONWEALTH OF VIRGINIA

V

ANNE BOSTON PARISH CM09000136

ORDER

This 16th day of June, 2009, came the Attorney for the Commonwealth and the defendant, ANNE BOSTON PARISH, in person and came also James S Abrenio, her attorney.

Whereupon, the accused was arraigned and pleaded NOT GUILTY to Assault and Battery.

And after being advised by the Court of his right to trial by jury, the accused knowingly and voluntarily waived trial by a jury, and with the concurrence of the Attorney for the Commonwealth and the Court, here entered of record, the Court proceeded to hear and determine the case without a jury, after having heard all of the evidence and argument of counsel, does find the accused GUILTY of Assault and Battery.

The Court doth ADJUDGE and ORDER that the defendant is hereby sentenced to payment of a fine in the amount of $50.00.

IT IS FURTHER ORDERED that the defendant pay costs of prosecution.

And the defendant is allowed to depart.

/s/: J Howe Brown Jr, Judge Designate

ENTERED: June 22, 2009

A COPY TESTE:
EDWARD SEMONIAN, CLERK
BY /s/: DEPUTY CLERK
CERTIFIED THIS 25TH DAY OF JUNE, 2009

NOTICE OF APPEAL — CRIMINAL
Commonwealth of Virginia VA. CODE §§ 16.1-132, 16.1-133

ALEXANDRIA GENERAL DISTRICT COURT
CITY OR COUNTY

General District Court

04/24/2009
DATE OF CONVICTION OR BAIL DETERMINATION

I, the undersigned, appeal [x] my conviction [ ] the determination on bail to the Circuit Court of this city or county. I understand that this appeal may be withdrawn at any time prior to the hearing date set for my case. My appeal is scheduled to be called for [ ] hearing on appeal of determination of bail [x] trial [ ] setting of trial date on

06/16/2009 9:00 AM in the Circuit Court, which is located at

520 KING STREET 4TH FLOOR ALEXANDRIA, VA. 22314
STREET ADDRESS OF CIRCUIT COURT

703-838-4044
TELEPHONE

I understand that if this is an appeal of a conviction and it is withdrawn within 10 days after my conviction in this District Court, no additional costs will be taxed against me; otherwise, additional costs will be incurred in Circuit Court. I also understand that upon withdrawal of that appeal, I am subject to the terms of my sentence.

WARNING—You are subject to trial and conviction in your absence if you fail to appear for your trial in the Circuit Court. Failure to appear for your trial shall be deemed a waiver of your right to trial by jury in this case. Failure to appear may also constitute a separate criminal offense.

I promise to appear before the Circuit Court of this jurisdiction at the date and time shown.

04/24/2009
DATE OF APPEAL

APPELLANT

by
ATTORNEY FOR APPELLANT

NOTICE: Promptly communicate with the Clerk of the Circuit Court of this jurisdiction concerning the subpoenaing of witnesses and any need for interpreters, concerning your right of representation by a lawyer if you do not have a lawyer, and, if you are appealing a conviction, if you wish to request a jury trial. If your case is scheduled for trial, you MUST be present and ready for trial at the "date and time of appearance" shown above.

FORM DC-370 REVISED 7/05

Case Number(s) GC09000527-00

NOTICE OF APPEAL

PARISH, ANNE BOSTON
APPELLANT'S NAME (LAST, FIRST, MIDDLE)

208 W WALNUT STREET, ALEXANDRIA VA 22305
ADDRESS

703-299-1795
WORK TELEPHONE NUMBER HOME

WITHDRAWAL

I, the undersigned, withdraw my appeal in this case

DATE

APPELLANT

by
ATTORNEY FOR APPELLANT

COURT USE ONLY

[x] Release on $ 100.00
(SECURED)
(UNSECURED)

[ ] Not eligible for bail.

APPENDIX D

WARRANT OF ARREST—MISDEMEANOR (STATE)

COMMONWEALTH OF VIRGINIA Va. Code § 19.2-71, -72

Alexandria
CITY OR COUNTY

☒ General District Court ☒ Criminal ☐ Traffic
☐ Juvenile and Domestic Relations District Court

TO ANY AUTHORIZED OFFICER

You are hereby commanded in the name of the Commonwealth of Virginia forthwith to arrest and bring the Accused before this Court to answer the charge that the Accused, within this city or county, on or about 02/04/2009 (DATE) did unlawfully in violation of Section

18.2-57
assault and batter Ruth Laneta

, Code of Virginia:

APD 09104929
A0079175

I, the undersigned, have found probable cause to believe that the Accused committed the offense charged, based on the sworn statements of

Officer Canniff, D. 1361 Alexandria Police Department , Complainant

Execution by summons ☒ permitted at officer's discretion ☐ not permitted

02/05/2009 01 17 PM
DATE AND TIME ISSUED

Adam Willard

☐ CLERK ☒ MAGISTRATE ☐ JUDGE

SUMMONS (If authorized above and by serving officer)
You are hereby commanded to appear before this court located at
520 King Street, Room 201 Alexandria, VA 22320-4489
on FEBRUARY 9, 2009 at 0900 AM PM

I promise to appear in accordance with this Summons and certify that my mailing address as shown at right is correct.

ACCUSED

CCRE May be Required

WARNING TO ACCUSED: You may be tried and convicted in your absence if you fail to appear in response to this Summons. Willful failure to appear is a separate offense.
SIGNING THIS NOTICE DOES NOT CONSTITUTE AN ADMISSION OF GUILT

FORM DC-312 (MASTER, PAGE ONE OF TWO) (1/08)

CASE NO 6609-527

ACCUSED
Parish, Anne Boston
LAST NAME, FIRST NAME, MIDDLE NAME
208 W Walnut Street
ADDRESS/LOCATION
Alexandria, VA 22305

To be completed upon service as Summons
Mailing address ☐ Same as above
☐

RACE	SEX	BORN MO DA YR	HT FT IN	WGT	EYES	HAIR
W	F	04/27/1952	5' 04"	115	HAZ	BRO

SSN

DLR STATE

CLASS 1 MISDEMEANOR

☐ EXECUTED by arresting the Accused named above on this day
☒ EXECUTED by summoning the Accused named above on this day
☐ For legal entities other than individuals, service pursuant to Va. Code § 19.2-76

2-5-09 1350
DATE AND TIME OF SERVICE
CANNIFF, D.S.
ARRESTING OFFICER
1361 ALEXANDRIA PD
BADGE NO., AGENCY AND JURISDICTION

for CAMS Hollins
SHERIFF

Attorney for the Accused
F. Andrews Carroll

Short Offense Description (not a legal definition)
ASSAULT: (MISDEMEANOR)

Offense Tracking Number
510GM2430900257

FOR ADMINISTRATIVE USE ONLY
Virginia Crime Code
ASL-1313-M1

M

2-9-09 ADV
Hearing Date/Time

FEB - 9 2009

9:30

3/23
4/24

STATE

The Accused was this day
[ ] tried in absence [✓] present

[✓] PROSECUTING ATTORNEY PRESENT (NAME) Burress

[✓] DEFENDANT'S ATTORNEY PRESENT (NAME) CARROLL

[ ] NO ATTORNEY [ ] ATTORNEY WAIVED
[ ] If convicted, no jail sentence will be imposed
[ ] INTERPRETER PRESENT
Plea of Accused
[✓] not guilty [ ] Witnesses sworn
[ ] nolo contendere
[ ] guilty [ ] Plea voluntarily and intelligently entered after the defendant was apprised of his right against compulsory self-incrimination and his right to confront the witnesses against him
[ ] Plea and Recommendation
And was TRIED and FOUND by me
[ ] not guilty [✓] guilty as charged
[ ] guilty of
VCC
[ ] facts sufficient to find guilt but defer adjudication/ disposition to
DATE AND TIME
and place accused on probation, §§ 4.1-305, 18.2-57.3, 18.2-251 or 19.2-303.2
[ ] A separate order for First Offender is attached and incorporated in this order
[ ] Costs imposed upon defendant

DATE JUDGE

And was FOUND by me to be
[ ] driving a commercial motor vehicle
[ ] carrying hazardous materials
[ ] I ORDER a nolle prosequi on prosecution's motion
[ ] I ORDER the charge dismissed [ ] with prejudice
[ ] conditioned upon payment of costs (accord and satisfaction), § 19.2-151
[ ] conditioned upon payment of costs and successful completion of traffic school, § 16.1-69.48.1
[ ] under §§ 4.1-305, 18.2-57.3, 18.2-251 or 19.2-303.2

I impose the following Disposition
[✓] FINE [ ] CIVIL PENALTY of $ 250. with $ suspended
[ ] JAIL SENTENCE of
imposed, [ ] of which days mandatory minimum, with suspended for a period of conditioned upon being of good behavior, keeping the peace, obeying this order and paying fines and costs
Credit is allowed pursuant to § 53.1-187 for time spent in confinement
[ ] Serve jail sentence beginning
[ ] on weekends only
[ ] Work release [ ] authorized if eligible [ ] required [ ] not authorized
[ ] Public work force [ ] authorized [ ] not authorized
[ ] on PROBATION for
[ ] VASAP [ ] local community-based probation agency
[ ] DRIVER'S LICENSE suspended for

[ ] Restricted Driver's License per attached order
[ ] Ignition Interlock for
[ ] RESTITUTION of $
due by
payable to
with interest thereon from
[ ] DATE OF LOSS OR DAMAGE [ ] TODAY'S DATE
[ ] as condition of suspended sentence
[ ] COMMUNITY SERVICE hours to be completed by
and supervised by
[ ] to be credited against fines and costs
[✓] Contact prohibited between defendant and victim/ victim's family or household members
[ ] Reimburse Commonwealth for investigatory medical fees
[ ] Pay $50 fee to the Court for Trauma Center Fund
[ ] Other

[ ] Remanded for [ ] CCRE Report [ ]
[✓] Bail on Appeal: $ 100 PR
DRIVER'S LICENSE/PRIVILEGE TO DRIVE IN VIRGINIA SUSPENDED EFFECTIVE IN 15 DAYS IF FINES, COSTS, FORFEITURES, PENALTIES OR RESTITUTION ARE NOT PAID
VA. Code § 46.2-395

4/24/19 JUDGE

Offense Tracking Number 510GM2430900237

FINE $ 250.00
LOCALITY

COSTS 71.00

461 FIXED MISD FEE
462 FIXED DRUG MISD FEE
113 WITNESS FEE
113 IGNITION INTERLOCK
113 DUI FEE
113
113
120 CT. APPT. ATTY
121 TRIAL IN ABSENCE FEE
125 WEIGHING FEE
133 BLOOD TEST FEE
137 TIME TO PAY
192 TRAUMA CENTER FEE
234 JAIL ADMISSION FEE
243 LOCAL TRAINING ACADEMY FEE
244 COURTHOUSE SECURITY FEE

OTHER (SPECIFY)

TOTAL $

[ ] Stay of the proceedings pursuant to § 16.1-131.1

DATE JUDGE

APPENDIX E

August 11, 2009

Mr. John Davidson
Davidson and Kitzman
211 N High Street
Charlottesville, Virginia

Ali Akbar
6014 Stoddart Court
Alexandria, Virginia 22315

Dear Mr. Davidson:

August 11, 2009 is the first day I have spoken to Ms. Parish since she was wrongfully accused of a crime on February 4, 2009. I also spoke to her today (August 13, 2009) and never understood the case and the importance of being in court on June 16, 2009.

This statement is to confirm I was in the clinic, while Ms. Parish was attending another patient. When I arrived, at the clinic, she was talking to another patient. I arrived between approximately 2:10pm-3:30pm. Ms. Anne Parish was in the clinic providing care to the female patient as well as myself. She did not go outside the clinic during this time nor did she touch, say, scream or state any profanity to anyone.

I was to be in court on June 16th, 2009 and subpoenaed. I did not come to court because I was told by Ms. Parish's attorney I was not needed in court and was excused. I am now aware of the seriousness of not being in court and I wish I had been able to provide the above information to confirm that Ms. Parish was in the clinic providing health care to two patients.

Sincerely,

/s/ Mr. Ali Akbar
SS # 230-33-9455

Date: 12/18/09

Witness: /s/ Darryl St. Clais Wyre

Date: 12/18/09

County/City of Alexandria
Commonwealth/State of Virginia
The foregoing instrument was acknowledged
before me this 29 day of November 2010, by
Anne Parish
(name of person seeking acknowledgement)
/s/ Jan McGinley
Rotary Public
my commission expires 7-31-13

APPENDIX F

U.S. POSTAL INSPECTOR SERVICE
WAHINGTON DIVISON

General Form

STATE OF Virginia DATE: 2-5-09

City Alexandria TIME: 10:00 AM

COUNTY OF:

I, Laneta Roth was born

And currently reside at

I am making this statement voluntarily to Inspector Nestro who has property identified him/herself as a United States Inspector.

See my attached statement

Was delivering the 300 block of N. Patrick o A lady on the 1000 block of Queen was yelling hey blond lady. I turned around & she said can you hurry up you "blond bitch" I need my mail so I can close up & go home. I have had to wait on you. Hurry up & give me my mail. I told her "Maam I am on this block when I am finished I will go to your block!" 2 men in a BMW was standing there. They yelled over to her to stop calling me names. She said well she is a dumb blond bitch & I need my mail. The two gentlemen said you need to stop being so impatient and quite calling her names. She kept yelling I still kept carrying mail and then another carrier came up to me and said this Lady at 1000 Queen St is calling you an Idiot & wants her mail so she can go home. I told him (the carrier) that I will not give him her mail & I am not going to deliver the mail there because she is yelling all sorts of stuff out on the street at me & calling me names. When I

got close to her business she came our & I advised her I was not given her the mail that she could . . .

(Words are cut off at top of page)

Said Why Why. She said give it to Mr. now. I kept walking and told her I did not need to be verbally abused. She grab my jacket & hair and I told her to let go of me. She started chasing me so I started running. I screamed & screamed to leave me alone & I was calling the police. She chased me a block. I ran past my truck, she stopped chasing me once I was dialing on my phone. I ran back to my truck & drove off & called the station. The whole time I carried the 300 block of Patrick she yelled & called me names I never acknowledged her. She told numerous people of the block I was an idiot & dumb blond bitch who was slow. I ran because I was scared to death.

/s/ of Laneta Roth
2-4-09

I have read the foregoing statement consisting of 4 pages, and the facts stated are true to the best of my knowledge.

/s/ of LaNeta Roth

Subscribed and sworn to before me on this 5th day of February, 2009, at Memorial Annex City of Alexandria.

Postal Inspector:
Witness /s/ Nestro

U.S. POSTAL INSPECTOR SERVICE
WAHINGTON DIVISON

General Form

STATE OF: Virginia DATE: 2/5/09

TIME: 10:42 AM

COUNTY OF:

I, Robert A. Williams was born

And currently reside

I am making this statement voluntarily to Inspector Nestro who has properly identified him/herself as a United States Postal Insepector.

On Feb 4/2009 I was carring mail on 200 blk of North Patrick while aproxinng 1000Queen at cross the street I notice a Lady standing At the door. Once I got in front of the door The Lady came out and stated that. That Lady want give me my mail. I told the lady The we must do the mail In sequence. But the Lady said well she Is A *Idith.* So I seem That the Lady was upset so I seen Laneta coming down the blk. So I went to Laneta and Ask her For the mail so That she wouldn't have to deal with It. And That when Laneta said know. Because. The Lady said A lot More, Like (Blonda Bitch). So Laneta keep on caring mail until she got to the Lady stop. And the lady ask for the mail and Laneta said NO. I am Taking the mail back to the office. Because you don't need to call people names and am not going to take that. So few more words would said like give me the mail and Lanea said NO. And walk away. So the Lady seen Laneta walking away. So the Lady went after Laneta. But First I walked away also. But I never Took my eyes off the lady. So I seen the lady Reach out to Grab Laneta Left Soulder and that caught Laneta off Guard. Laneta yell get away From me are

something something Liki that and the Lady said give me my mail. And the Lady ran back to me At 226 N. Patrick and said That she going to get In troble and Ifs your frot because you told her what I said. And then the Lady wen ran back In her bldg. And drove off. But I seen the Lady touch her soulder which surprise Laneat because she had her back to the Lady.

I notce that Laneta was upset I told her to calm down you did what you had to do.

I have read the foregoing statement consisting of 4 pages, and the facts stated are true to the best of my knowledge.

/s/ of Robert Williams

Subscribed and sworn to before me on this 5th day of February, 2009, at Memorial Annex City of Alexandria

Postal Inspector:
Witness /s/ Nestro

APPENDIX G

POLYGRAPH EXAMINATION
REPORT 09-032

May 11, 2009

Barry D. Colvert
Forensic Polygrapher
Virginia license 1601 000684
New Mexico license 1639
North Dakota license D-00033
PO Box 7133
Alexandria, VA 22307-7133
Email thelieguy@aol.com
Telephone (703) 405-6979
Facsimile (703) 768-3978

CLIENT
Greenspun, Shapiro, Davis, & Leary, P.C.
Peter D. Greenspun, Attorney
3955 Chain Bridge Road
Fairfax, Virginia 22030

DATE OF EXAMINATION
05.07.2009

START/FINISH
0845/1150

EXAMINEE NAME
Anne Margaret Parish

DATE OF BIRTH
04.27.1952

HOME ADDRESS
208 West Walnut Street
Alexandria, Virginia 22301

PLACE OF BIRTH
Portsmouth, Virginia

PRESENT EMPLOYER & POSITION
2001-present: Owner
Queen Street Clinic, Alexandria, Virginia

CITIZENSHIP/ALIEN REGISTRATION #
U.S.

CONCLUSION
NO DECEPTION

INFORMATION:

Anne B. Parish was charged with assaulting a United States Postal worker on 02.03.2009. On 04.24.2009, Ms. Parish was convicted in the City of Alexandria General District Court of this offense. Ms. Parish was alleged to have pursued this postal worker after she was denied delivery of her mail. Ms. Parish is to have grabbed the postal worker by the shoulders and pulled on her hair. Ms. Parish denies this allegation and is appealing the conviction. Peter D. Greenspun, Ms. Parish's attorney, has requested a polygraph examination addressing this allegation.

APPENDIX H

ANNE BOSTON PARISH
208 WEST WALNUT STREET
ALEXANDRIA, VIRGINIA 22301

July 6, 2009

The Honorable Judge J. Howe Brown
Circuit Court of Alexandria 4th Floor
Alexandria, Virginia 22314

Re: Commonwealth v. Anne Boston Parish
Case # CRM090000136

The Honorable Judge J. Howe Brown:

I have filed a Notice of Appeal with the Court of Appeals of Virginia for the case referenced above; however it is my sincere hope that my appeal can be avoided and that you will grant me a new trial. I am aware that you retain control of all judgments and orders for 21 days. Please set aside your verdict based upon these new evidentiary facts.

I am asking you to please set aside your verdict of June 22, 2009 in which you found me guilty of assault and battery, and that you grant to me a new trial that would allow me a fair trial with due process of law.

It would be my hope that after reading and hearing some of the information that was suppressed; you will find me not guilty.

My defense attorney was, in my opinion, an ineffective counsel, and he was guilty of a series of failures. He did not show or develop the weakness of the case with respect to the testimony of the principal witness, Miss Roth, and he did not question her with respect to her reluctance to testify against me. Also, he did not use her prior written statements as given to the Police and

the Post Office Department to show the inconsistencies with her testimony in your court. Further, he did not question the Police Office who filed the complaint with the Magistrate who issued the Summons against me.

According to my understanding of the Constitution, a criminal defendant is presumed to be innocent until proven guilty beyond a reasonable doubt; and that the burden is upon the prosecution to develop the proof that a defendant is guilty beyond a reasonable doubt. I quote what I read from an article of the ABA which said, "The criminal lawyer is the client's lone champion against a hostile world."

The Commonwealth had an obligation, duty and burden to proven beyond a reasonable doubt that I was guilty of assault and battery upon the person of Miss Roth, and that I had a guilty mind in committing such an act. Please note that had the following information been available for your consideration, you may have been able to better understand the evidentiary facts in this case, and therefore, find that there was reasonable doubt as to my guilt. Additionally, had you known that Miss Roth had told the Police that she did not wish to testify, you may have had reason to question her veracity.

In my opinion, the Commonwealth did not ensure that all of those witnesses that were subpoenaed were present in court and did not question the rationale of the Police Officer who filed the complaint against me with the local Magistrate. Also, there was no identification or introduction of the Postal Inspector's documentation of the alleged events.

My former attorney, who has now abandoned me for bigger and greater things, has informed me that, according to the Police report (first filed in this case in February), Miss Roth did not want to prosecute the

charges against me. Last Thursday, a Post Office official called me and related to me that Miss Roth has recently expressed a desire to request a reversal of your decision and to modify her previous court statements. In fact, I am informed that Miss Roth has said that she wishes to withdraw her complaint.

Although I did attempt to apologize to Miss Roth for any "*misunderstandings*" that may have occurred on the day that she claims I assaulted her, I wish to assure you that I have never touched, grabbed, struck or attempted to assault Miss Roth in any way. Further, I never uttered any profane words to her or toward her or about her. I want you to know that I do not wish her any harm, no discord in her life, nor interfere with her ability to enjoy a rewarding life.

For many years, I have been practicing medicine as a Family Nurse Practitioner MSN, RN, CS; FNP-BC, and my history and credentials in operating the Queen Street Clinic for many years are attached hereto in the form of reprints of the website that speaks of me and the Queen Street Clinic in Alexandria. I must say I am a highly respected and compassionate medical professional and have been recognized as such by the Alexandria Chamber of Commerce and as a 2002 Washingtonian recipient. I hold a DEA licensure (Drug Enforcement Administration) and my record is impeccable and I have managed to carry on my clinic and practice without any complaints. Medical Doctors supervise my functions when necessary and appropriate.

Unfortunately, a patient who was to testify, as a witness, and was on the subpoena list, was not at the trial. He was the patient I was treating at the time of this alleged assault, yet my attorney did not seek a continuance.

Respectfully submitted,

Anne Boston Parish, MSN, RN, CS; FNP-BC

APPENDIX I

LETTER TO SUPREME COURT JUSTICES

Dear Honorable Supreme Court Justices:

November 28, 2010

I was in court the day Anne Boston Parish was conviction of a crime in which I know she did not do. She is Saint Theresa of Old Town, everyone knows, she is the one who will take care of them when they get sick. She does a lot of horse trading...these days, no one has any money, so we are all amazed how she keeps the doors of the clinic open, but it is with heartfelt sadness I see she must now close the clinic...where are her patients going to go??? I have known Anne for three years and have much praise to say about her character, her professionalism, and dedication to her patients. I am however very troubled over what I saw in Court:

1. Anne's wrongful conviction, under the Commonwealth of Virginia's Department of Health and the Department of Professionals, Anne's Virginia State nursing license, her DEA number and her certificate as a Family Nurse Practitioner are at risk to be revoked due to this guilty conviction (90-55/QHC-029).
2. On the day of trial: I was there as a character witness but also witnessed what I believe to be unethical and unprofessional behavior by her attorney's Mr. Greenspun and Mr. Albrenio.
3. Anne had not done anything wrong, and they both kept insisting that she plea down to a lesser charge, for a crime she did not do!
4. I remember Mr. Greenspun kept saying, "This is not a big deal it is only a $50.00 fine and you

did not get any jail time, but don't sell your business."

5. It seemed Mr. Greenspun should have been fully aware of the professional damages and consequences this verdict would cost her.
6. I witnessed, Mr. Greenspun laugh at Anne as he walked away, she was in tears.
7. As a Medical Doctor, my license would be taken from me, if I intentionally caused harm to someone
8. Why did Mr. Greenspun tell Anne, she could not have a jury? I now know, she was guaranteed a jury, but after court started, I witnessed the Prosecutor hand Mr. Greenspun a sheet, and Mr. Albrenio told her to sign it. She was signing over the right to a jury; she told me later, she did not know she could have a jury. Anne put too much trust into Mr. Greenspun !
9. Anne has suffered financially, professional, physically and psychologically damages for this wrongful charge. It just really is not fair!

Sincerely,
/s/ (sig)

L. Field, MD

LETTER TO SUPREME COURT JUSTICES

November 10, 2010

To: Honorable Chief Justices, United States Supreme Court

This statement is to document my beliefs, thoughts, and opinions, on situations that occurred at Anne Boston Parish's trial on June 16, 2009 at the Alexandria Virginia Court House. I attended the trial to give moral support to Ms. Parish and have known Ms. Parish over 50 years.

In my opinion on that day and after the trial started in the hallway areas of the court house, Ms. Parish's attorney, Peter Greenspun, kept trying to get Ms. Parish to plead guilty to another charge that was supposed to be a lesser charge. Ms. Parish refused to plead guilty because she replied to Mr. Greenspun that she did not commit any assault or other crime and she emphasized to Mr. Greenspun that the alleged crime did not happen. In my opinion, Mr. Greenspun did not ethically represent Ms Parish due to the undo pressure to have her pled guilty.

In my opinion on that day and after the trial started in the hallway areas of the court house, Ms. Parish's attorney, Peter Greenspun, kept trying to get Ms. Parish to sign a document without explaining to Ms. Parish what the full effect of signing that document meant. I thought that strange because I would have thought in preparing a client for trial, Mr. Greenspn or his assistant, Mr. Albrenio would have thoroughly reviewed this with Ms. Parish prior to the day of the trial,In my opinion, for being an experienced criminal attorney Mr. Greenspun lacked professionalism and appeared to be unprepared to defend Ms. Parish.

In my opinion on that day and after the trial ended in the hallway areas of the court house, Mr. Greenspan told Ms. Parish several times he would send her a statement for her to use when she needed to renew her medical licenses or submit job or other applications because all she had to pay was a $50 fine. To the best of my knowledge and belief, Mr. Greenspun never sent Ms Parish any statement and he never explained the full effect of being found guilty would have on her medical career.

In my opinion on that day in the hallways of the court house, Mr. Greenspun's assistant attorney, James Albrenio, told me to wait outside in case they wanted to call me as a witness. I thought it strange because neither Mr. Greenspun nor Mr. Albrenio, interviewed me for any reason prior to the trial to be a witness and, moreover, I was not present on the date of the alleged incident. However, I still thought it strange even though I was not and am not familiar with court or legal procedures.

Regards,
/s/ (sig)

Ms. F. Smith

APPENDIX J

LETTER TO ATTORNEY GENERAL OF VIRGINIA

Mr. Ken Cuccinelli
Attorney General of Virginia
Richmond, Virginia

July 26, 2010

Dear Mr. Cuccinelli,

My name is Anne Boston Parish; I am the founder and owner of the Queen Street Clinic in Alexandria. www.queenstreetclinic.com I write to you, because I have to believe, if you knew of my circumstances, you would assist me. For nine years, I have provided health care to the medically uninsured or underinsured. I was the **first clinic** in Northern Virginia to be built as a medical home for the uninsured. I am always fighting for those less fortunate, I am a pioneer in my field, and have always believed if you are honest, and present the facts, the law will always prevail, for me, this has not been the case. I have placed my good name, life and professional goals in the hands of three attorneys. I feel they have not defended me, presented accurate facts and suppressed significant information in court.

This case is clearly a police officer who overused his authority and two postal workers who made up a tale. It is my opinion that there is an underlying fear of the negative ramifications of confronting a police officer for overuse of his authority and the consequences of two postal workers for filing a false police report. I am innocent. I took an oath to do no harm, and I am being harmed by deception.

Last year I was violated by two dishonest postal workers, and a police office. I am still fighting a long expense battle. Last year, as I was delivering health care (inside my clinic), two postal workers accused me of assaulting the female postal worker, "pulling her to get my mail." This made up story and the filing of a false police report has destroyed my good name, medical reputation and most recently, I was notified, by the Commonwealth of Virginia, Ms. Aileen Harris, that my $20,000 Nurse Educator scholarship (that I was awarded for the year 2009-2010 will not be honored), and she has yet to confirm that I am a recipient of this years scholarship money to complete my Doctor of Nursing Practice (DNP). I truly expected to receive the scholarship to be able to keep my clinic operational as I start my residency.

On February 4, 2009, I was inside my clinic treating patients. The following day, a police officer who two years prior, (I was unaware of this) was reprimanded because of me. This police officer did not complete his police report for my hit and run car accident. I just needed the paperwork for my insurance, and he told me to take care of it myself, and then went on vacation. So, I called the Chief of Police's office, since I was told he had to complete the report, and "I just asked for a copy of his police report." He had never completed a police report, so he was reprimanded. **I did not** know this until we were in court and the police office, told the Judge he knew me from an **unresolved police report**. The police office was never questioned why he went to the Magistrate for a criminal crime he did not witness. Nor did he take the time to speak to me, before he took a false police report. He only listened to <u>half of the story</u>.

The day after this "made-up assault" 4 investigators (two police and two federal agents) entered my medical

clinic (unannounced and in the presence of my patients) for two hours "brow beat" me and accused me of all sorts of bad things, called me names and attempted to get me to confess to a crime I did not do. Then all four threatened me saying, **"Unless you sign this summons"**, we am going to put you in jail for a year. They left the clinic and stood outside my clinic, laughing. I stood in the lobby of my clinic crying in front of my patients. No one knew what to say. I am still traumatized. **The next morning my home was surrounded by the police** who, in the presence of my neighbors, attempted to handcuff me and take me to jail. I was in tears and finally able to show the group of police officers that I had signed the summons. They said, **"Oh, our mistake, we are so sorry."** I have spent approximately $75,000 dollars and have run out of money. It is my opinion:

- In General District Court, my first attorney, Drew Carroll, was not prepared; he never redirected the postal workers conflicting stories in court, with their written statements that they had given the postal inspectors. He did not tell my patient to be in court, as my witness, I was outnumbered. The Judge said, **"Two against one and the Judge found me guilty"**.
- In Circuit Court, my second attorney, Peter Greenspun, told my patient, my witness, not to come to court. My patient's name was on the witness list, when the Judge asks if all witnesses were present. Peter did not stand up and state, "Our witness is not here to prove my clients innocence!" I even submitted to an expensive polygraph; a former FBI agent who administered the polygraph told Peter, "I was the most honest female he had ever met", yet Peter said, to the former FBI agent **"We have internal problems."**

- At the Appellate Court of Appeals in Virginia, my third attorney, John Davidson should have been able to have the case dismissed. I had provided John with an original signed "witnessed" affidavit that my patient was told not to come to court by Peter Greenspun's firm. After the appeal was granted for oral arguments, the appeal was denied. When I found this out, I had a para legal review his brief, and the para-legal was shocked. Somehow over the telephone, the Judges, ruled against me, because it would appear and it reads: "Per her words and conduct for this crime", I was found guilty. I was stunned, when I read the Judge's opinion, but more so by John's cavalier attitude, "Well, I guess they too do not believe you." This was after paying him $25,000 to **point out the inconsistencies in the trial transcript between the two postal workers testimony under oath**. No where have I ever admitted to a crime: I did not call her names, touch her, go near the female postal worker, was running up and down a main street of Alexandria, for 15 minutes, (in 28 degree weather) shouting out profanity, and calling her a "Dumb Blond Bitch." Yet, she is the **only** person who heard this loud shout out of profanity. My clinic is on corner of Route 1, over 40,000 vehicles travel this road daily, yet no one saw, heard or witnessed these false accusations directed at me.
- I have run out of money and I had to file an appeal *pro se* in the Supreme Court of Virginia and just last Thursday, July 22, 2010 I was told, **"My appeal was denied."**

I have spoken to Ms. Alice Armstrong, and I understand she is opposing counsel; however I always thought the **Office of the Attorney General was to seek fairness and protect the innocent**. I am innocent, since these false charges, the financial stability of my clinic is in jeopardy, and I possibility will not be able to complete my DNP due to the awarded funding being withheld. Ms. Armstrong has been kind to listen to me, however I can not afford another attorney and that was her only suggestion.

Two months ago, I was honored with the highest Public Health Service award that can be presented by the Alexandria Commission of Public Health and the City of Alexandria Public Health Department: **2010 Flora Krause Casey Award**. However, as good as the internet is with getting information out, it has been a nightmare, for my business, when you Google my name, this awful criminal charge comes up. So, the negative implications of this false charge have created impressions that may never be undone.

I have to believe: you were elected to ensure all Virginian's are afforded due process with fairness and that all federal and state personnel are <u>not immune</u> from serving the public with honesty. I need my story heard, and this awful charge expunged from my good name. For over a year I have had the courage to look fear in the face, and I will not back down. I am innocent.

Respectfully submitted,

Anne Boston Parish, MSN, RN, CS; FNP-BC

LETTER TO ATTORNEY GENERAL OF VIRGINIA

August 23, 2010

Dear Mr. Cuccinelli

On June 26, 2010, at a fund raiser for Patrick Murray, I handed you a letter seeking your personal guidance and assistance. I should not have been so vague. I turned to you for assistance; I needed clarity with the actions of State personnel and their protocol that have harmed me. The adversity I have felt, and the harsh conditions I have experienced have begun to destroy a lifetime of personal and professional goals. It has been difficult to understand why anyone would believe this false tale, more so, why the legal system has the power and influence to damage and devastate my well being and livelihood. The harassment and overuse of police authority, in the presence of my patients, was overwhelming. Our founding fathers shed blood for freedom and for liberty, not to be in fear of government and those who control the outcomes in the court room.

Mr. Cuccinelli, you are The Attorney General of Virginia and the person elected to guarantee all Virginia Courts, Officers of the Courts (both prosecutor and defense counsel), and State employees posture honesty, integrity, and justice. I am weary of the veracity of those who are privileged to hold these offices. I am hopeful you will review the injustices of this wrongful accusation and malicious prosecution. These wrongful actions have been made by Virginia state personnel; you or the Governor need to examine, within the bureaucratic infrastructure, why I was wrongly accused and malicious prosecuted by the Commonwealth.

Mr. Cuccinelli, you were elected to serve the people of Virginia with impartiality. I believe if you read the inconsistencies in the trial transcript, and the written statements by the two postal workers, you would agree I should never have been accused of this crime. If you read the enclosed precendential value for jurisdictional review, the Commonwealth has maliciously prosecuted me. Additionally, the Nurse Educator scholarship that I was awarded has never been honored.

- The Nurse Educator scholarship money of $20,000 (for two years $40,000), that I had been awarded has never been sent. Ms. Harris, who is a State employee, is responsible for the program. Ms. Harris has not sent the awarded scholarship money owed from the Commonwealth of Virginia, for last year (2009-2010) and as promised for the (2010-2011) academic year. (I have enclosed the congratulatory letter and an email from her) As the Attorney General, has a violation in ethics occurred to not honor a written and verbal award? I have written to Ms. Harris, she will not reply.
- It is my belief; an Alexandria Police Officer overused his authority. Unannounced and in the presence of my patients he harassed me and interrogated me about an act that was to have occurred the day before; that I did not do. He said, "I have probable cause." However, at no time did he ever read or say the Miranda warning. I am in my ninth year of operational status and I have built a medical home for those who would only have the emergency room to use for their primary care. Operating the medical clinic is no longer an option. My

name and professional community standing have been slandered by people who have no concept of the anguish they have caused me, and a legal system that has failed to impart justice. Sitting in the lobby was an attorney, who witnessed his actions.

- I am presently awaiting the Virginia Supreme Court to review my appeal for oral arguments *pro se*. I believe I was never granted a fair trial, or due process. There was much error and prejudice within the General and Circuit Courts of Alexandria and by my defense and appeal attorney. I am not a scholar of the law, but I do recognize, the violation of my Fifth, Sixth, and Fourteenths amendment rights.
- My academic standing is questionable, my criminal background check, (criminal-assault) is less than acceptable for a doctoral candidate. My doctoral residency is pending, because of this wrongful accusation. It has been extremely complicated to defend this wrongful allegation.
- Within the Alexandria Courts there has been much detachment, from the Commonwealth, my defense and appeal attorney. Their lack of concern for criminal procedural law and the collateral consequences to my professional and personal community standing has become demeaning. I strongly believe, the Commonwealth should never have tried this wrongful allegation, but more so, if I had been offered an impartial jury or had Judge Brown allowed for a retrial, since new information has come forward, I would have been afforded a fair trial and found not guilty. I am neither a lawyer nor a scholar of law, but I am honest.

Ms. Stuart instructed me to file a complaint; this will not exonerate my good name. I have not been trained in the etiquette of legal proceedings, but I will continue to fight to exonerate this wrongful accusation.

"One is innocent and must be proven guilty beyond a reasonable doubt." When Mr. Greenspun questioned the Federal Postal Inspector, he said, "Did you ever follow up further with her, with Ms. Parish? The Federal Postal Inspector said, "No, I did not." (Transcript page 88, line 13).

Respectfully submitted,

Anne Boston Parish, MSN, RN, CS; FNP-BC

Cc: Ms. Alice Armstrong

Enclosures: 3

APPENDIX K

VIRGINIA
Judicial CANON 3.

A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY.

A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.

B. Adjudicative Responsibilities.

1. A judge shall hear and decide promptly matters assigned to the judge except those in which disqualification is required.

2. A judge shall be faithful to the law and maintain professional competence in it. Administrative Responsibilities

1. A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and shall cooperate with other judges and court officials in the Disciplinary Responsibilities.

E. Disqualification.

1. A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

a. The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;

F. Remittal of Disqualification. A judge who may be disqualified by the terms of Section 3E may ask, or have the clerk of court ask, the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. Written evidence of the agreement shall be incorporated in the record of the proceeding.

Article IV

The right to the people to be secure in their persons, houses, paper and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searches, and the person or things to be seized.

Article V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval o naval forces, or in the militia, when in actual service in time of war or public danger' nor shall

any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken from public without just compensation

Article VI

In all criminal prosecutions, the accused shall enjoy the right to a speed and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusations; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Article XIV

Section 1

All persons born or naturalized I the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 U.S.C. § 1983

§ 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or

Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

Va. Const. Art, § 8

Constitution of Virginia
Bill of Rights

Article 1

A DECLARATION OF RIGHTS made by the good people of Virginia in the exercise of their sovereign powers, which rights do pertain to them and their posterity, as the basis and foundation of government.

Section 8. Criminal prosecutions.

That in criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, and to call for evidence in his favor, and he shall enjoy the right to a speedy and public trial, by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty. He shall not be deprived of life or liberty, except by the law of the land or the judgment of his peers, nor be compelled in any criminal proceeding

to give evidence against himself, nor be put twice in jeopardy for the same offense.

Laws may be enacted providing for the trial of offenses not felonious by a court not of record without a jury, preserving the right of the accused to an appeal to and a trial by jury in some court of record having original criminal jurisdiction. Laws may also provide for juries consisting of less than twelve, but not less than five, for the trial of offenses not felonious, and may classify such cases, and prescribe the number of jurors for each class.

In criminal cases, the accused may plead guilty. If the accused plead not guilty, he may, with his consent and the concurrence of the Commonwealth's Attorney and of the court entered of record, be tried by a smaller number of jurors, or waive a jury. In case of such waiver or plea of guilty,

183

No. 10-817

Supreme Court, U.S.
FILED
MAR 15 2011
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

Anne Boston Parish,

Petitioner,

v.

Commonwealth of Virginia,

Respondent.

On Petition For Writ Of Certiorari
To The Supreme Court of Virginia

PETITION FOR REHEARING

Anne Boston Parish
208 West Walnut Street
Alexandria, Virginia 22301
abparish@msn.com
703-299-1795

Pro se

March 15th, 2011

TABLE OF CONTENTS

Page

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

INTRODUCTION 1

LAW AND ARGUMENT 4

CONCLUSION 8

CERTIFICATION 11

TABLE OF CITED AUTHORITIES

CASES Page

Alcorta v. Texas, 355 U.S. 28, 31 (1957) 6, 7

Hayes v. Brown, 399 F.3rd 972,988 (9th Cir. 2005) 6

Hulvey v. Roberts, 106 Va. 189.55 S.E. 585 (1906) 5

Mooney v. Holohan, 294 U.S. 103, 115 (1935) 7

Pyle v. Kansas, 317 U.S. 213, 215-216 (1942) 7, 9

Strickland v. Washington, 466 U.S. 668, 666 (1984) 5

U.S. v. Cronic, 466 U.S. at 659 & n.25 (1983) 6

COURT RULES

Va. Sup. Ct. R. 3A:15 (Motion to Strike) 1, 2, 3, 4, 6

Va. Sup. Ct. R. 1:1 (Finality of Judgment) 1, 2, 3

Sup. Ct. R.44 ..... 4, 11

The Virginia Code of Judicial Conduct 5

Standards of the American Bar Association 5

OTHER AUTHORITIES

U.S. Constitution 1, 5, 7, 8

Fifth Amendment 1

Sixth Amendment 5, 6, 7

Fourteenth Amendment 1

Bill of Rights 5

Due Process Clause 1

INTRODUCTION

The Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Due Process Clause of the Fourteenth Amendment, states the same eleven words to describe the legal obligation of all states. It was Thomas Jefferson's fervent belief that anything is possible. **It is possible and vital this conviction is reversed, dismissed or remanded to the lower Court.**

The Virginia Supreme Court erred when it ruled in finding the evidence sufficient, as a matter of law, to support Petitioner's conviction. The opinion of the Court of Appeals of Virginia was presumed "to be correct and would be reversed only upon a showing that it is plainly wrong or without evidence to support it."

A motion for a new trial based on after-discovered evidence "is a matter submitted to the sound discretion of the lower Court and will be granted only under unusual circumstances after particular care and caution has been given to the evidence presented." This period is referred to as the time for which the case is "in the breast of the court", and during this time the court has complete discretion to suspend, vacate, or amend its judgment or decree. **Va. Sup. Ct. R. 3A: 15; 1:1**: Motion to Strike or to Set Aside Verdict; Judgment of Acquittal or New Trial must satisfy a four prong after-discovered test to suspend, vacate, or amend its judgment or decree. **This Petition of Rehearing satisfies the four prong after-discovered test (that fell within the legal obligation of the lower Court) to grant a new trial due to its unusual circumstances.**

The United States Supreme Court has an obligation to reverse, dismiss or remand to the lower Court.

1. **The Evidence was discovered after the trial**:
   A. Defense counsel directed key witness, Mr. Akbar, not to come to Court. Petitioner was told **after the trial**, (Appendix E).
   B. Mr. Roger Owens the USPS Manager, called Petitioner. Miss Roth was modifying the charges; **after the trial**, (July 3, 2009).
   C. Defense counsel did not assist Petitioner within the "21 day rule" of judgment (June 22, 2009) **Va. Sup. Ct. R. 3A:15; 1:1** requesting a motion for a new trial that was within the twenty-one-days-from-conviction limitation on presentation of newly discovered evidence of innocence, **after the trial**.
   D. An electronic mail from Mr. Greenspun states his withdrawal from the case, within the 21 days from judgment was sent to Petitioner **after the trial**.

pdg@mail.greenspunlaw.com

To Anne Parish, James Abrenio

Ed 7/08/09 1:58

Anne:

Given the letter to Judge Brown, I will not take any other actions on your behalf. I have never received information that Ms. Roth wants to drop the charge since the trial result. We knew, as did you, that she was not pushing the charges vigorously, but the prosecutor insisted on proceeding despite Ms. Roth's attitude. That was his decision.

(Abbreviated)
Peter [s]

2. **The Evidence could not have been discovered, through the exercise of due diligence, prior to the trial**:
   A. Defense counsel did not display due diligence in ethical and moral, conduct or competence set forth by the American Bar Association within the 21 days to defend Petitioner **after the trial**.
   B. Defense counsel's intentional wrong, and refusal to defend Petitioner, was viewed as bad faith and **grounds for reversing a conviction on appeal after the trial**.
3. **The Evidence is not merely cumulative, corroborative, or collateral**:
   A. Defense counsel refused to defend the Petitioner, when advised that Miss Roth had come forward to modify her charge is grounds for reversing a conviction on appeal **after the trial**.
   B. Defense Counsel, a scholar of the law, withheld legal procedural or protocol/ technicality for a Judgment Motion. A letter written within the 21 days of judgment needed, to be in front of a Judge in Court, not merely written to a Judge **after the trial** (Appendix H).
4. **The evidence is material to the extent that it is likely to produce different results from a new trial**:
   A. The Virginia Courts erred, with prejudice, **not** to enforce the Commonwealth rule **Va. Sup. Ct. R. 3A:15; 1:1**.
   B. The dismal of **Va. Sup. Ct. R. 3A:15; 1.1** is an improvident exercise of misconduct; **an error of law and grounds for reversing a decision on appeal**. The

> right to a new trial was not granted as due process would allow when the Honorable Judge Brown **denied a new trial** dismissing a letter dated July 6th, 2009 (Appendix H) in accordance to **Va. Sup. Ct. R. 3A: 15** was within the 21 days of judgment **and met all criteria for granting a motion for a new trial**.

If this conviction is affirmed, it will set a precedent that any two persons can make up a tale and for any reason have an innocent person wrongfully arrested. The Commonwealth of Virginia has opened the "flood gates" for innocent people to be wrongfully arrested and maliciously prosecuted. With lack of any fact and without any evidence a person may now be wrongfully arrested and convicted solely on the "unfounded information" of two people making up a tale out of prejudice, hate or mean spirited and nothing more.

LAW AND ARGUMENT

Pursuant to Rule 44, a petition for rehearing is limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presents **(Rule 44)**. On February 22, 2011, this Court issued an Order denying the Petitioner, Anne Boston Parish, ("Petitioner"), Petition for a Writ of Certiorari. The Petitioner now timely seeks this Petition for Rehearing.

The Petitioner's Petition for A Writ of Certiorari was mailed to this Court on December 17, 2010. On September 24, 2010 the Supreme Court of Virginia issued their decision to deny Petitioner a rehearing to set aside judgment rendered on July 22, 2010. The Commonwealth of Virginia did not follow its governance, yet their prosecutorial misconduct and demonstrated overt

constitutional prejudice that further gives confidence in the erosion of the Virginia Code of Judicial Conduct.

Under the standards, set forth by the American Bar Association, the United States Constitution, and Bill of Rights the insubordination of the lower Court evokes contempt. **This case is an egregious departure from constitutional law and grounds for reversal, dismissal or remanded to the lower Court**. The Virginia Supreme Court's denial of Petitioner's rehearing is a failure to consider the facts and law relating to a particular matter; an arbitrary or unreasonable departure from constitutional precedents and settled judicial custom. The Commonwealth's judicial performance was paradoxical and highly arrogant with counsel's conduct not functioning as 'counsel' **guaranteed** by the Sixth Amendment.

The lower Court of Virginia dismissal of the "Fundamental of Fairness" standards shall, by virtue of this United States Constitution, have original jurisdiction in cases of Writ of Certiorari, and shall compel a lower court to perform mandatory or purely ministerial duties correctly. The question of jurisdiction is dependent upon the decision of a constitutional question in the lower court. Jurisdiction may be conferred upon the United States Supreme Court by virtue of the constitutional that the constitutionality of the law was called in question and decided in the lower Court, ***Hulvey v. Roberts*** **106 Va. 189. 55 S.E. 585 (1906)**.

In a retrospective analyzes of ineffective assistance of counsel, **after the trial** and within the "21 days of judgment" counsel's conduct so undermined the functioning of the adversary process that this trial could not be relied upon as having produced a just result. ***Strickland v. Washington,*** **466 U.S. 668, 666 (1984)**. The ineffective assistance of counsel was

pretentious and a violation of Petitioner's constitutional Sixth Amendment. Mr. Greenspun's lack of assistance for a new trial calls into question his obligation to perform at a level of competence and consequently compromised the outcome. Mr. Greenspun's failure to defend Petitioner was fundamentally wrong. He ostentatiously sent an electronic mail to Petitioner, stating, "He would not assist Petitioner within the critical 21 days of judgment to secure a new trial." In ***Cronic***, the Court described this type of a situation an unreasonable departure from constitutional law from which prejudice is presumed. When counsel does not assist the accused, at a critical stage of the proceeding, or when counsel entirely fails to subject the prosecution's case to meaningful adversarial testing, courts will presume prejudice ***U.S. v. Cronic*, 466 U.S. at 659 & n.25. (1983)**.

There are numerous cases that will be cited to support the departure of constitutional law inherent in this case. It is equally significant to note that the Virginia Court of Appeals erred when liberally dismissing a letter to Judge Brown dated July 6, 2009, (Appendix H). This error went to the heart of the case and was **within** the draconian twenty-one days-from-conviction limitation on presentation of newly discovered evidence of innocence **Va. Sup. Ct. R. 3A:15** that was a violation of the Petitioner's constitutional rights for a new trial.

The Prosecutor's actions in ***Hayes v. Brown*** illustrates how a prosecutor's unethical conduct resulted in a tainted and unjust trial. ***Hayes v. Brown*, 399 F.3rd 972,988 (9th Cir. 2005)**. Further in ***Alcorta v. Texas*, 355 U.S, 28, 31 (1957)** the United States Supreme Court announced that prosecutors have an independent duty to correct information they know to be false ***Alcorta v. Texas*, 355 U.S. 28, 31 (1957)**.

Subsequently, the United States Supreme Court established that a prosecutor's failure to correct false testimony was unconstitutional ***Alcorta v. Texas*, 355 U.S. 28, 31 (1957)**. This departure from constitutional law is not only significant but salient, and corroborates Mr. Greenspun's and the Commonwealth's pompous departure from reporting new evidence, **after the trial and within the 21 days from Judgment**, as acts so unconstitutional it led to an unfavorable outcome and conviction for this Petitioner, an innocent person. The United States Supreme Court in an effort to determine whether trial testimony was correct first granted relief in ***Mooney v. Holohan***, for the use of false testimony by a prosecutor to seek a conviction ***Mooney v. Holohan*, 294 U.S. 103, 115 (1935)**. In ***Mooney v. Holohan***, it was alleged the prosecutor withheld evidence that would have exposed perjury **Id. at 110**. The United States Supreme Court held the State knowing use of false testimony was "inconsistent with the rudimentary demands of justice," and hence, unconstitutional **Id. at 112**.

Seven years later, in ***Pyle v. Kansas*, 317 U.S. 213, 215-216 (1942)** the United States Supreme Court held that suppression of evidence favorable to the accused was sufficient to create constitutional error. The United States Supreme Court reversed, holding that these allegations indicated that defendant's constitutional rights had been violated **Id at 216**.

On appeal, the lower Court and Mr. Greenspun's decision not to seek a continuance was unconstitutional. Similarly to ***Pyle v. Kansas***, Mr. Akbar was the one person who could exonerate the Petitioner. (Appendix E). Mr. Greenspun had a moral and ethical obligation to uphold the Sixth Amendment of the United States Constitution to defend Petitioner. It was Mr. Greenspun's responsibility to ensure the key witness be present in

court or request a continuance of trial. Neither of these two options was executed. **When this was brought to the Courts attention, after the trial, it was the lower Court obligation to grant a new trial.**

CONCLUSION

The Supreme Court of Virginia's published opinion affects every citizen in the United States. This conviction will sanction and gives great preeminence to State and Federal government agencies to convict an innocent person without evidence or fact. This wrongful conviction will promote and tolerate the proliferation of bias, prejudice, ignorance and hate. **To ignore this wrongful conviction is to affirm and establish a precedent that is a violation of the Petitioner's constitutional rights of the United States Constitution.**

Mr. Greenspun's electronic message **affirms the Commonwealth's desire to prosecute the Petitioner**. The arrogance and lack of discipline that is inherent within the Commonwealth of Virginia's failed justice system is unconstitutional. **The lower Court just got it wrong.**

- There is or never was any evidence to substantiate the conviction more so this case began with a heinous made up offense and pitted an unpopular minority female, assisted by an inadequate defense, against a determined prosecutor zealously seeking a conviction.
- In this "low profile" case, the pressure to convict involved standard cases to which no one pays close attention. Conduct explained in this way may include disregard for due process safeguards, to overt pressure on witnesses to give evidence that will support the conviction of the selected suspect, to

falsification of evidence, all in the name of securing a conviction of someone the police have decided is guilty.

- A marginalized female who can be made to bear public fear, embarrassment, humiliation and the loathing is the necessary element of a wrongful conviction. "The ends may justify the means" rests on the assumption that the police have found, and the state is prosecuting, the right person.
- The challenge is to be morally ethical and intellectually honest during an investigation, fair during trial, and above all, humble enough to admit error. Anyone can make a mistake; the evil lies in refusing to admit it.
- The role of the police to generate the evidence is only half of the equation. The other half rests on the role of the police and their high status within the administration of justice.

Without the intervention of the United States Supreme Court, a ruling to affirm this case will bless lawyers, judges and courtrooms akin to cite this particular case that will sanction any two persons, without an iota of evidence or fact to accuse one person of a false charge, to be wrongfully arrested and maliciously prosecuted. It is incumbent upon all those who evaluate the causation of this wrongful conviction to consider the internal prejudice within the parameters of this case.

In ***Pyle v. Kansas*, 317 U.S. 213, 215-216 (1942)** the United States Supreme Court held that suppression of evidence favorable to the accused was sufficient to create constitutional error. Any misuse of public authority threatens the equilibrium of a system resting so fundamentally on the consent of the governed, but the threat is most acute when the misconduct injuries

a citizen directly-especially if it denies the Petitioner a constitutionally protected right. This conviction illuminates the importance of the United States Supreme Court Justices to grant instant Petition for Writ of Certiorari. **It is possible and vital this conviction is reversed, dismissed or remanded to the lower Court.**

For the reasons stated above, the Petitioner respectfully requests that this United States Supreme Court Grant the Petition for Rehearing and grant Petitioner its previously submitted Petition for Writ of Certiorari.

Respectfully submitted,

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CERTIFICATION UNDER RULE 44

Anne Boston Parish certifies that pursuant to Rule 44, the grounds for this Petition for Rehearing are restricted to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented in the Petition for Writ of Certiorari and that this Petition for Rehearing is presented in good faith and not for delay.

Respectfully submitted,

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